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Agenda item 114 (c)
HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

SECURITY COUNCIL
Forty-eighth year

Letter dated 3 November 1993 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the statement of the Ministry of Foreign Affairs of the Federal Republic of Yugoslavia concerning the appeals addressed to the United Nations Security Council and the General Assembly, other international forums and Governments by some non-governmental organizations (see annex).

I should be grateful if you would have this letter and its annex circulated as an official document of the General Assembly, under agenda item 114 (c), and of the Security Council.

(Signed) Dragomir DJOKIĆ
Ambassador
Chargé d'affaires a.i

ANNEX

Statement of the Federal Ministry of Foreign Affairs of Yugoslavia concerning the appeals addressed to the United Nations Security Council and the General Assembly, other international forums and Governments by some non-governmental organizations, issued on 29 October 1993

In view of the increasingly frequent appeals to the United Nations Security Council and General Assembly, the European Community, the Conference on Security and Cooperation in Europe (CSCE), other international forums and Governments of United Nations Member States addressed by some non-governmental organizations such as Amnesty International and International Helsinki Watch, as well as the fact that given previous experiences, it is likely that some other non-governmental organizations will follow their example, the Federal Ministry of Foreign Affairs wishes to draw attention to the following:

It reiterates that such broad and coordinated actions alleged to protect human rights in the Federal Republic of Yugoslavia are aimed at exerting concerted political pressure on the Federal Republic, this time in connection with Kosovo and Metohija and other integral parts of its territory inhabited by members of national minorities.

There is no reason for such broad and aggressive action against the Federal Republic of Yugoslavia because of its alleged refusal to cooperate in the field of human rights, including the CSCE monitoring mission and that of the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia, Mr. T. Mazowiecki.

International human rights forums are well aware that the Government of the Federal Republic of Yugoslavia has never refused to cooperate with international organs and bodies within the United Nations system. On the contrary, the Federal Republic of Yugoslavia is fully abiding by its international commitments undertaken in accordance with the mechanisms elaborated for the protection and promotion of human rights within the United Nations.

Thus, for example, the Federal Republic of Yugoslavia maintains good and close cooperation with the United Nations Commission on Human Rights and the Subcommission on Prevention of Discrimination and Protection of Minorities, to the extent to which it is currently possible under the decision of the United Nations General Assembly. Mr. Mazowiecki visited the Federal Republic of Yugoslavia twice, despite Yugoslavia's objections to the partiality of his reporting. His closest associate, Mrs. Stephanie Grant, spent a few days in the Federal Republic of Yugoslavia, including the visit to Kosovo and Metohija. This constitutes proof that we are prepared to cooperate with the United Nations Commission on Human Rights.

The Federal Republic of Yugoslavia has continued to cooperate with the special groups and special rapporteurs of the United Nations Commission on Human Rights. In August 1993, Mr. T. van Dongen, a member of the Working Group on Enforced or Involuntary Disappearances, visited the Federal Republic of Yugoslavia. We have maintained regular correspondence with special rapporteurs,

such as those concerned with mass and arbitrary executions, torture, religious intolerance, mercenaries, etc. The Federal Republic of Yugoslavia submits regular reports and all requested and available information, including government reports required by some resolutions adopted by the Commission on Human Rights, the Subcommission and the General Assembly. Furthermore, it fully abides by the procedure under Economic and Social Council resolution 1503 and submits replies to communications addressed to the United Nations Centre for Human Rights.

The Federal Republic of Yugoslavia maintains these contacts despite the fact that, by illegal means and against their rules of procedure, it has been denied the right to participate in the work of almost all these human rights bodies. The refusal of the World Conference on Human Rights, held in Vienna last June, to allow us to participate in its proceedings is the most obvious example of the unwillingness of human rights bodies, mandated to promote cooperation in this field, to cooperate with the Federal Republic of Yugoslavia.

The Federal Republic of Yugoslavia is particularly unjustifiably accused because it allegedly denied its hospitality to the CSCE mission of long duration to Kosovo, Raska and Vojvodina. It is not true that the authorities in Belgrade closed the CSCE mission of long duration. The mission discontinued its work upon the expiry of its mandate under the protocol concerning the extension of the memorandum of understanding of 28 April 1993 and negotiations to extend its stay were not renewed because of the lack of readiness and political will on the part of competent CSCE bodies to cooperate with the Federal Republic of Yugoslavia as an equal partner. It is well known that at the 13th meeting of the CSCE Committee of Senior Officials (CSO) held on 8 July 1992, the Federal Republic of Yugoslavia was suspended from CSCE and its representatives were denied the right to participate in meetings and activities of this organization. This is totally unacceptable to the Federal Republic of Yugoslavia, being in contravention of the principles of equality and sovereignty and detrimental to mutual cooperation and the entire CSCE process. In such a situation, the activities of the CSCE mission of long duration could be considered only in the context of lifting the suspension decision and the full reintegration of the Federal Republic of Yugoslavia in CSCE as a sovereign State. An essential and indispensable feature of any cooperation, particularly, within CSCE, is participation on an equal footing. The normalization of the status of the Federal Republic of Yugoslavia within CSCE would establish equitable relations and open the way to comprehensive and fruitful cooperation between CSCE and the Federal Republic of Yugoslavia. This was the subject-matter of the letter addressed by Mr. Vladislav Jovanovic, Federal Minister of Foreign Affairs, to Mrs. Margareth af Ugglas, Chairperson of the CSCE Council.

The arrests of some ethnic Albanians, mentioned in the report, have nothing to do with their previous employment or contact with members of the CSCE mission of long duration, but with their involvement in the activities of terrorist and separatist organizations, which have been recently disclosed in Kosovo and Metohija.

Allegations of widespread human rights violations and intensified police repression in Kosovo and Metohija are arbitrary. In addition, the CSCE "troika report" submitted to the 13th CSO meeting in Prague noted that no side directly indicated a possibility of imminent dramatic developments in this province.

As regards the recommendations adopted at the latest CSCE human dimension implementation meeting, held at Warsaw from 27 September to 15 October 1993, we recall once again that, due to the well-known status of the Federal Republic of Yugoslavia in CSCE, Yugoslavia has not yet received these recommendations and, therefore, cannot comment on them. This is another proof of the detrimental effects of Yugoslavia's non-participation in international gatherings.

Most accusations and allegations contained in the Amnesty International report entitled "International Monitoring in Kosovo and Beyond", particularly in the part entitled "Human rights violations and fear of escalations of violence in Kosovo Province", are extremely generalized and uncorroborated and based on indirect information. The fact that this important organization releases many uncorroborated and unverified allegations and accusations can be also illustrated by the recent intercession of Amnesty International in "The case of Sami Kurteshi". Thousands of letters requesting his release were sent to Yugoslav ambassadors and prominent figures in Yugoslavia. However, having checked with the republican and provincial authorities, Federal authorities established that no person of this name was ever detained or arrested, nor was any infraction or any criminal proceeding instituted against him. Moreover, while these letters were from all over the world, Sami Kurteshi was registered as a member of a non-governmental organization and participated in the session of the Subcommission on Prevention of Discrimination and Protection of Minorities last August. Therefore, we consider that Amnesty International should base its future reports on corroborated information. Amnesty International could obtain such information on the spot in educational, health, information and other institutions in Kosovo and Metohija. We are prepared to cooperate with Amnesty International along these lines.

The appeals of non-governmental organizations tend to picture the human rights situation of Albanians, Hungarians and Muslims as exceptionally difficult because of the alleged repression of Serb authorities. However, none of these non-governmental organizations has so far considered it necessary to appeal for respect for the rights to life, an adequate standard of living, health and education and for many other basic and inalienable human rights of which the 10.5 million people of the Federal Republic of Yugoslavia and over 600,000 refugees are deprived due to the isolation and other repressive measures imposed on them by the national community.

As far as the overall human rights situation in the Federal Republic of Yugoslavia is concerned, we wish to point out that in the conditions of severe sanctions imposed by the international community, war in its vicinity, various political pressures aimed at its complete fragmentation, complete excommunication from all international forums, severed cultural, scientific, educational and particularly economic ties, Yugoslavia has been exerting its greatest efforts to abide fully by all its commitments under 21 international human rights instruments. This is in full compliance with its policy of readiness to contribute, as an equal partner, to peace, security and overall prosperity, where respect for human rights and their promotion are of vital importance.

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Agenda item 54
QUESTION OF CYPRUS

SECURITY COUNCIL
Forty-eighth year

Letter dated 2 November 1993 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a letter addressed to you by His Excellency Mr. Osman Ertuğ, Representative of the Turkish Republic of Northern Cyprus (see annex).

I should be grateful if the text of the present letter and its annex could be circulated as a document of the General Assembly, under agenda item 54, and of the Security Council.

(Signed) İnal BATU
Ambassador
Permanent Representative

ANNEX

Letter dated 1 November 1993 from Mr. Osman Ertuğ
addressed to the Secretary-General

Upon instructions from my Government, I have the honour to bring to your attention two statements, one by President Rauf Denktas and the other by Foreign and Defence Minister Dr. Kenan Atakol, respectively, in connection with the communiqué issued by the recent Commonwealth Heads of Government Meeting held in Southern Cyprus (appendices I and II, respectively).

I wish to stress that the paragraphs on Cyprus of the Final Communiqué issued at the end of the said meeting are not in the least compatible with the efforts within your mission of goods offices to find a mutually acceptable, negotiated solution to the Cyprus question. On the contrary, the said paragraphs, with their one-sided treatment of the issues involved, obviously under the influence of Greek Cypriot propaganda, create new obstacles for the negotiations by encouraging Greek Cypriot intransigence.

I should be grateful if the present letter and its annexes could be circulated as a document of the General Assembly, under agenda item 54, and of the Security Council.

(Signed) Osman ERTUĞ
Representative
Turkish Republic of Northern Cyprus

/...

APPENDIX I

Statement of 26 October 1993 by President Rauf R. Denktas in Lefkosa on the paragraphs on Cyprus of the Final Communiqué issued by the Commonwealth Heads of Government Meeting held in Southern Cyprus between 21 and 25 October 1993

"This communiqué has been adopted in the absence of the Turkish Cypriot side. Therefore, as in the case of all such other communiqués, it is not in any way binding on the Turkish Cypriot side or the people of the Turkish Republic of Northern Cyprus. The said communiqué, which has been adopted by listening only to one side of the problem, and without regard even to the most elementary norms of justice, has naturally caused dismay among the Turkish Cypriots, who are one of the peoples of the Commonwealth family.

"It is indeed regrettable that members of an organization such as the Commonwealth, having come as far as our borders, did not even bother to cross over to the North, assuming that these borders have been drawn by an 'occupation army'; that they did not even feel the need to send a fact-finding mission to the North; and that, by looking at us from a distance and being influenced by the demonstrations staged by the Greek Cypriot side, adopted such a communiqué."

APPENDIX II

Statement of 26 October 1993 in Lefkosa by Dr. Kenan Atakol, Minister of Foreign Affairs and Defence

"During the closing ceremony of the 12th meeting of the Commonwealth Heads of Government, a communiqué was issued, which includes one-sided paragraphs on Cyprus fully supporting the Greek Cypriot viewpoint.

"It is evident that this communiqué, which was adopted without listening to the Turkish Cypriot side, and distorts the realities in Cyprus, will not, in any way, be binding on the Turkish Cypriots. The Commonwealth, which had remained silent during the tragic years from 1963 to 1974, when the Turkish Cypriots were being subjected to all forms of inhuman treatment, and which has made a habit of applauding the Greek Cypriot leadership, who had meted out such treatment to the Turkish Cypriots, has no moral or other right to call for the withdrawal of the Turkish Peace Forces, who saved the Turkish Cypriots and secured real peace in the island.

"The reference by the Commonwealth to the so-called 'settlers' is a distortion of the issue regarding the return of the Turkish Cypriots, who had been forced to emigrate from Cyprus as a result of Greek Cypriot pressures, to their ancestral homeland. It is also a misrepresentation of the importation of labour into Northern Cyprus, which was much needed for the revitalization of our economy, prevented from developing by Greek Cypriot embargoes. Such misrepresentations are totally unacceptable.

"At a time when the Turkish Cypriot authorities have been cooperating in goodwill with the team of experts sent by the United Nations Secretary-General to study the confidence-building measures (CBMs); and whereas the Greek Cypriot authorities at the highest level are declaring that they only 'appear to accept the package (of CBMs) for tactical reasons', the Commonwealth's attempt to blame the Turkish Cypriot side for the non-implementation of the CBMs is incompatible with morality and goodwill.

"The said communiqué once again confirms the view held by the Turkish Cypriot side from the beginning that the choice of South Cyprus as the venue for the Summit was a grave mistake, and that the Commonwealth, which insists on treating the Greek Cypriot administration as the 'legitimate Government of the whole of the island', cannot pursue an impartial policy with regard to the Cyprus question."

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FINANCIAL REPORTS AND AUDITED FINANCIAL STATEMENTS,
AND REPORTS OF THE BOARD OF AUDITORS

Recovery of misappropriated funds from staff members and former staff members

Report of the Secretary-General

I. INTRODUCTION

1. In paragraph 13 of its resolution 47/211 of 23 December 1992, the General Assembly requested the Secretary-General to make proposals to the Assembly on:

> "(a) Establishing legal and effective mechanisms to recover misappropriated funds, as recommended by the Advisory Committee on Administrative and Budgetary Questions in paragraph 53 of its report; 1/
>
> "(b) Seeking criminal prosecution of those who have committed fraud against the Organization."

2. The Advisory Committee on Administrative and Budgetary Questions, in paragraph 53 of its report, 1/ stated:

> "53. Cases of fraud and presumptive fraud have been reported by the Board in paragraphs 355 to 368 of its report, as well as in paragraph 126, with regard to an incident of misappropriation of funds in ECA amounting to approximately $125,000. The Committee notes that, in quite a few cases, efforts towards recovery of misappropriated funds or other losses to the Organization have either been negligible or unsuccessful, due in some cases to the individual having left the jurisdiction of the United Nations. In view of this, the Advisory Committee suggests that the Administration, with the assistance of the Legal Counsel, explore the possibility of establishing a mechanism by which agreements or arrangements between the United Nations and all Member States could be reached. The objective would be to enable the Organization to pursue the prosecution of individuals for

embezzlement of funds and to seek redress and recovery of misappropriated funds. The feasibility of recovery from the pension benefits of the individuals concerned should also be explored."

3. The present report is submitted in response to that request.

II. CURRENT PRACTICE

A. Internal action

1. Recovery from accrued salary and emoluments

4. Under the provisions of staff rule 103.18 (b) (ii), deductions from salaries, wages and other emoluments may be made for indebtedness to the United Nations. In cases where it is established that United Nations funds were misappropriated by a staff member, the first course of action is to attempt to recover the amounts involved from any accrued salary and other emoluments, including terminal payments, of the staff member. Virtually all cases of full recovery are achieved in this manner.

5. In some cases, however, as noted by the Advisory Committee, the amounts recovered have been negligible because the total of the funds misappropriated far exceeded any sums to which the staff member might otherwise have been entitled. Where a staff member had separated from the United Nations and had received all final payments before the presumptive fraud was discovered, it has usually not been possible to recover any part of the misappropriated funds unless the individual was found to be employed by another organization of the United Nations system. In such circumstances, it has sometimes been possible to make arrangements with the other organization to effect recovery on behalf of the United Nations.

2. Pension benefits

6. Attempts by the Administration to obtain direct recovery of indebtedness from the pension entitlements of staff members were rejected in the past by the Administrative Tribunal of the United Nations, which held that the Regulations of the United Nations Joint Staff Pension Fund, promulgated by the General Assembly, precluded recovery of amounts due to the Organization from the pension benefits of separated staff. The Tribunal held, furthermore, that the Administration could not refuse to issue the documentation on the basis of which a staff member's pension benefits are processed, in an attempt to induce the former staff member to repay to the Organization the sums misappropriated. The Tribunal considered, however, that the Administration should not be left defenceless in such a case; it therefore suggested that the Administration and the Pension Fund should seek an appropriate solution to similar situations.

7. As a result, the Secretary-General amended the Administrative Instruction on the subject of the personnel payroll clearance action, to provide for the non-issuance of documents necessary for processing of pension benefits following separation from service. The relevant provisions of the amended Administrative Instruction 2/ read as follows:

"11. Staff members separating from service, in accordance with their contractual obligations to the United Nations are responsible for:

(a) Settling all indebtedness to the United Nations;

...

(d) Providing, in accordance with staff rule 104.4, the necessary documentary evidence as verification of the fulfilment of the responsibilities set out above.

"12. The Under-Secretary-General for Administration and Management may refuse to issue the P.35 form [Personnel Payroll Clearance Action form] or may delay its issuance until a staff member has satisfactorily fulfilled the requirements set out in paragraph 11 above.

"13. Staff are reminded that non-issuance of a P.35 form will prevent them from receiving their pension benefits since this form is required by the Pension Fund for the processing of those pension benefits. Staff are also reminded that failure to comply with the obligations set out in paragraph 11 above may result in the suspension of the separation procedure, which may delay any payments otherwise due to the staff member ..."

8. The Secretary-General believes that this procedure may encourage former staff members to settle their indebtedness to the Organization. However, it should be noted that the Tribunal has not yet had an occasion to examine this Instruction.

9. With regard to the possibility of directly attaching pension benefits as a method of recovering monies due from former staff members, the Secretary-General notes that such benefits are often seen as a social benefit to the family of the former staff member and that the benefit to the family will, of course, already have been reduced by the dismissal of the staff member for fraud. If such a provision were to be incorporated into the Pension Fund Regulations, the Secretary of the United Nations Joint Staff Pension Fund would have to determine both the existence and the amount of indebtedness and then determine the appropriate level of deductions from pension benefits. The Administrative Tribunal would consequently have to be given jurisdiction to hear appeals from such decisions, with the organization concerned being given the right to intervene to prove indebtedness.

10. It is doubtful that the costs of such a procedure should be borne by the Pension Fund; thus, the organization concerned would have to refund all costs of the exercise to the Pension Fund. Should the General Assembly desire to pursue this option, which requires amending the Pension Fund Regulations, the matter must first be referred by the General Assembly to the United Nations Joint Staff Pension Board, so that it can submit its views to the Assembly as required by the Regulations. 3/

B. External action

1. General comments

11. Article 104 of the Charter of the United Nations provides that the Organization shall enjoy in the territory of each of its Member States "such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes". Section 1 of the Convention on the Privileges and Immunities of the United Nations 4/ (the General Convention) provides that the United Nations shall possess juridical personality and shall have the capacity to contract, to acquire and dispose of immovable and movable property and to institute legal proceedings. These two provisions give the United Nations the capacity to sue in national courts.

2. Civil actions for recovery

12. Civil action for recovery of misappropriated funds requires proof of fraud by staff members. In this connection, a general problem arises if the alleged fraud consisted of a breach of internal United Nations regulations or rules (e.g., claiming and obtaining from the United Nations excessive or unwarranted reimbursement for medical expenses, education grant or income taxes). In such cases, in order to determine whether the staff members' acts were fraudulent, the national court would have to interpret and apply those provisions of the internal regulations and rules of the Organization allegedly violated by the staff member concerned.

13. However, in many legal systems, a national court may find difficulties in, or even a legal impediment to, applying internal rules of an intergovernmental organization which do not have the force of law in that national legal system, unless they are the few regulations promulgated pursuant to Headquarters Agreements to the express exclusion of local law. Furthermore, the submission of disputes involving internal regulations or rules to national courts could result in interpretations conflicting with those given by United Nations organs or inconsistent with the policies and interests of the Organization.

14. The difficulties outlined above would not exist where the act committed by the staff member would, independently of the United Nations regulations and rules, in itself constitute a wrong in the national jurisdiction (e.g, theft of or damage to United Nations property). From a practical viewpoint, effective recovery may be expected in such cases if the defendant has assets and is physically within the jurisdiction where the alleged fraud occurred or the evidence of wrongdoing is available, particularly if the fraudulent act was committed in collusion with non-United Nations staff in that jurisdiction, and therefore co-defendants are available against whom also recovery can be obtained.

15. Recovery becomes much more difficult if the staff member has left the country where the fraud was committed. In order for an action to be receivable, it would, in most cases, then be necessary to seek the assistance of the judicial authorities of the country where the staff member is currently residing. The effectiveness of the action for recovery would then depend, inter alia, on whether provision was made by agreement for judicial cooperation

between the country where the action was instituted and the country where the fraud occurred. In the absence of such agreement, a request for foreign judicial assistance would usually have to be transmitted through diplomatic channels and require the involvement of superior courts or high-level governmental officials of the countries concerned.

16. Moreover, the Organization may encounter considerable delay and expense in meeting the requirements for authentication and translation of relevant documents, interrogatories and annexed papers into the language of the requested court, and then translating that court's record of execution back into the official language of the original court. In addition to the delays involved, costs would be dramatically increased by the need for hiring the services of local counsel in at least two different countries and arranging for the presence of United Nations officials from Headquarters at the trial held away from the place where the fraud was committed.

17. In any case, the effectiveness of the action depends on the extent to which recovery of funds can be expected under the laws to be applied by the court. Proving the fraudulent conduct by means acceptable in the competent court can vary between countries. For instance, in certain States serious difficulties may exist in regard to producing evidence in the form of tapes, records of telephone conversations, or other evidence produced by mechanical means, so as to make such evidence virtually useless. In cases of fraud involving misappropriation of funds through banking transactions, national laws on banking secrecy and limitation of bank liability may also reduce the likelihood of adequate recovery by the United Nations.

18. In view of these difficulties, the likelihood of reasonably prompt recovery at an acceptable cost in cases involving the jurisdiction of different States is remote.

3. Criminal actions

19. Criminal jurisdiction has always been considered one of the essential attributes of sovereignty and, accordingly, criminal prosecution is a matter within the discretion of national criminal authorities. Those national authorities will evaluate the accusations of criminal action and decide whether the facts meet national requirements for continuing investigations and/or instituting prosecution.

20. The Secretary-General has on a number of occasions requested that national authorities investigate cases of alleged fraud against the United Nations, both by third parties and by former staff members. However, audit findings which lead to the dismissal of staff members are rarely supported by the type of evidence required under national law to secure criminal conviction, because the Secretary-General does not have the investigatory police powers needed to establish proof of guilt beyond reasonable doubt (such as subpoena power to obtain bank or financial records of the accused or his or her family, to obtain testimony on oath of witnesses, etc.). In addition, national authorities are often unwilling to undertake criminal action unless the amount of the fraud is significant.

21. In general, a criminal action may be successfully pursued only if the former staff member or any possible outside accomplice is physically present, at the time of the action, within the jurisdiction where the crime was committed. This requires, of course, that the fraud be discovered by the Organization before the individual leaves the country. The Secretary-General has undertaken to improve the internal control procedures that will enable immediate reporting to national criminal investigative agencies of cases of suspected fraud (see A/42/437 and A/47/510).

22. If the staff member concerned has left the jurisdiction where the fraud was committed before the prosecution commences, serious difficulties will arise because of the need for extradition of the accused. The laws of the extraditing State may prohibit extradition on a variety of grounds. 5/ It is noted that the United Nations has made considerable efforts to achieve more effective international cooperation in criminal matters, including the recommendation of the adoption by Member States of suitable international agreements to that purpose. 6/ However, despite existing measures for international assistance and cooperation, the delays in extradition procedures usually are considerable.

23. The courts of certain countries may entertain a prosecution even if the alleged crime was not committed within the jurisdiction (e.g., if the accused is residing within the jurisdiction). However, it will then be necessary to record evidence abroad or obtain the testimony of witnesses living in other countries. This can be a complex and time-consuming exercise that national authorities may be unwilling to undertake.

24. In summary, effective criminal prosecution of those who defraud the United Nations requires the full cooperation of the Member States and, to be viable, it usually requires that the accused, or at least his or her accomplices, be physically present at the time the prosecution is initiated in the State where the fraud was committed.

III. PROPOSALS FOR REFORM

25. As quoted in paragraph 2, the Advisory Committee, in its report (A/47/500, para. 53), requested that the Secretary-General explore the possibility of reaching agreements or arrangements with all Member States to enable the United Nations to pursue the prosecution of individuals for embezzlement of funds and to seek recovery of misappropriated funds.

Civil actions

26. The Secretary-General considers it possible to facilitate the task of civil action for recovery of embezzled funds by amending the Statute of the Administrative Tribunal of the United Nations to give it jurisdiction to judge claims submitted by the Organization against staff members, so that proceedings before national courts would be required only for enforcement of the judgement.

27. Under its Statute, the Administrative Tribunal has competence to entertain applications filed by staff members alleging a breach of their terms of employment. It would be possible for the General Assembly to amend the Statute of the Tribunal, to extend its jurisdiction as proposed herein.

28. This proposal, while respecting the sovereignty of Member States, has the advantage of minimizing the difficulties encountered by the Organization with external civil action. The potential conflicts of jurisdiction would be practically avoided, since national courts would be involved only for the enforcement of the judgement. There would also be no conflicts of law concerning aspects of substance, since the Administrative Tribunal would apply the internal law of the Organization and the enforcement authorities would not be expected to re-examine material aspects of the case. The high costs of producing evidence before national courts would be drastically reduced, and local counsel would be retained only to obtain enforcement of the judgement. Finally, this proposal would allow unrestricted examination of the entire circumstances of the cases, without affecting the privileges and immunities of the Organization.

29. A similar proposal has been submitted in the past to the General Assembly, in the second report presented by the Secretary-General on the feasibility of establishing a single administrative tribunal for the entire common system, pursuant to Assembly resolution 33/119 of 19 December 1978 (A/40/471). 7/

30. The General Assembly repeatedly postponed the consideration of that report to subsequent sessions; 8/ eventually, the Fifth Committee decided to close the discussion of this subject, in view of the opinion expressed by Member States that the entire question required further discussion (see document A/44/724 of 21 November 1989). Upon the recommendation of the Fifth Committee, the Assembly decided to retain, pending further consideration, the existing Statute of the Administrative Tribunal of the United Nations and requested the Secretary-General to revert to this matter, when appropriate (decision 44/413 of 22 November 1989).

31. The Secretary-General notes that no objection has been recorded with regard to the proposed extension of jurisdiction of the Administrative Tribunal and that the reason the General Assembly did not adopt the proposal at that time was the lack of consensus regarding the broader subject of unification of the administrative tribunals of the United Nations and the International Labour Organization. The Secretary-General believes that the particular issue of extending the jurisdiction of the Tribunal may be considered by the Assembly independently of any possible developments regarding the feasibility of establishing a single administrative tribunal for the entire common system.

32. As regards the enforcement of judgements rendered by the Administrative Tribunal under this new provision, the view was expressed, during consideration of that proposal, that the extension of jurisdiction "would not be fully useful to the United Nations until the recognition of Tribunal judgements by national courts could be achieved, possibly through a multilateral convention or a series of bilateral agreements with the Organization" (see A/43/704, para. 24).

33. The Secretary-General considers, however, that it may not be necessary that Member States sign a multilateral convention or a series of bilateral agreements with the Organization for the purpose of recognizing the judgements of the Tribunal. This could be achieved by a resolution of the General Assembly, recommending that Member States cooperate with the Organization in these matters and pass the necessary legislation to ensure recognition and enforcement of judgements of the Administrative Tribunal. 9/ Of course, each State's

legislation might specify the defences open to the party against whom the judgement of the Tribunal is sought to be enforced. However, even if automatic full recognition is not possible, it may be that a number of jurisdictions will recognize, prima facie, the validity of such judgements or the evidence produced before the Tribunal. If the General Assembly accepts this approach in principle, it may wish to request the Secretary-General to submit concrete proposals in this connection at a subsequent session, since such proposed amendments are normally submitted to the Tribunal for its comments prior to formal submission to the Assembly.

Criminal actions

34. In relation to criminal action against former staff members, the Secretary-General notes that the aforementioned difficulties derive ultimately from the existence of different national systems of criminal law and the related standards of proof required for a criminal conviction. In spite of several attempts at harmonizing national legislation and improving cooperation among States in the prosecution of criminals, major problems still exist as these matters appertain very closely to national sovereignty. It would not be reasonable to propose the creation of a centralized criminal court to deal with criminal acts against the United Nations, or to expect Member States to negotiate an international convention with this limited scope.

35. One possible measure could be the adoption by the General Assembly of a resolution recommending that Member States pass legislation making fraud against the United Nations committed by their nationals or by persons domiciled in the territory of such Member States punishable by appropriate penalties and subject to the jurisdiction of national courts. Such a resolution could also recommend that Member States extend to the Organization and to other Member States all the necessary assistance in order to secure criminal prosecution of individuals defrauding the United Nations. If the General Assembly wishes to examine this option further, the Secretary-General could be requested to prepare a report contemplating specific proposals for such an Assembly resolution.

Notes

1/ A/47/500.

2/ ST/AI/155/Rev.2.

3/ Article 49 of the Regulations of the United Nations Joint Staff Pension Fund (JSPB/G.4/Rev.14) provides as follows:

"(a) The Board may recommend amendments to these Regulations to the General Assembly, which may amend these Regulations after consultation with the Board."

4/ General Assembly resolution 22 (I).

5/ I.e., if the courts of the extraditing State consider themselves competent for judging the criminal action; if there is no extradition treaty in force with the requesting country; if the penalty provided for in the laws of

the requesting country is considered excessive, inhuman or unacceptable by the extraditing country; if the accused is a citizen, or consort or parent of a citizen of the extraditing country.

6/ For example, the adoption, by the General Assembly, on 14 December 1990, of a Model Treaty on Extradition (resolution 45/116), a Model Treaty on Mutual Assistance in Criminal Matters (resolution 45/117), a Model Treaty on the Transfer of Proceedings in Criminal Matters (resolution 45/118) and a Model Treaty on the Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released (resolution 45/119).

7/ The first report of the Secretary-General was entitled "Feasibility of establishing a single administrative tribunal" (A/C.5/39/7 and Corr.1). On the recommendation of the Fifth Committee (A/39/842, para. 12), the General Assembly decided to defer consideration of that report to its fortieth session (decision 39/450 of 18 December 1984).

8/ Decision 40/465 of 18 December 1985, decision 41/447 of 5 December 1986, resolution 42/217 of 21 December 1987 and decision 43/452 of 21 December 1988.

9/ General Assembly resolution 92 (I) of 7 December 1946 on the protection of the United Nations name and emblem, which contains the recommendation that Member States adopt such legislation as may be necessary to prevent the unauthorized use of the name and emblem of the United Nations resulted in appropriate legislative measures in a number of Member States (see Yearbook of the International Law Commission, 1967, (United Nations publication, Sales No. E.68.V.2), vol. II, p. 235).

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ECONOMIC ASSISTANCE TO STATES AFFECTED BY THE IMPLEMENTATION OF THE SECURITY COUNCIL RESOLUTIONS IMPOSING SANCTIONS AGAINST THE FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO)

REPORT OF THE SECRETARY-GENERAL PREPARED PURSUANT TO THE NOTE BY THE PRESIDENT OF THE SECURITY COUNCIL (S/25036) REGARDING THE QUESTION OF SPECIAL ECONOMIC PROBLEMS OF STATES AS A RESULT OF SANCTIONS IMPOSED UNDER CHAPTER VII OF THE CHARTER OF THE UNITED NATIONS

The present report was prepared pursuant to the above-mentioned Security Council mandate. It is being made available to the members of the General Assembly for their information in view of the inclusion of item 169 on the agenda of the forty-eighth session of the Assembly and the fact that sections of the report have a direct relation to the consideration of the item.

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INTRODUCTION

1. In paragraph 41 of my report entitled "An agenda for peace" (A/47/277-S/24111) prepared pursuant to the statement adopted by the Summit Meeting of the Security Council on 31 January 1992, it is observed that in circumstances when peacemaking requires the imposition of sanctions under Article 41 of the Charter of the United Nations, it is important that States confronted with special economic problems not only have the right to consult the Security Council regarding such problems, as Article 50 of the Charter provides, but also have a realistic possibility of having their difficulties addressed. Accordingly, I recommended that the Security Council devise a set of measures involving the financial institutions and other components of the United Nations system that can be put in place to insulate States from such difficulties. Such measures would be a matter of equity and a means of encouraging States to cooperate with decisions of the Council.

2. The Security Council examined the question of special economic problems of States as a result of sanctions imposed under Chapter VII of the Charter in connection with the Council's consideration of the item entitled "An agenda for peace: preventive diplomacy, peacemaking and peace-keeping". In a statement (S/25036) made by the President of the Security Council, on behalf of the Council, at its 3154th meeting, held on 30 December 1992, reference was made to the observations and recommendations set out in paragraph 41 of my report "An agenda for peace". In particular, the Security Council noted the recommendation that the Council devise a set of measures, involving the financial institutions and other components of the United Nations system, that can be put in place to insulate States from such difficulties. Furthermore, the Security Council expressed its determination to consider the matter further and invited me to consult the heads of the international financial institutions, other components of the United Nations system and States Members of the United Nations and to report to the Council as early as possible. The present report is submitted in response to that request.

I. PRACTICE OF THE SECURITY COUNCIL IN THE APPLICATION OF ARTICLE 50 OF THE CHARTER OF THE UNITED NATIONS

A. Introductory note

3. Chapter VII of the Charter of the United Nations, entitled "Action with respect to threats to the peace, breaches of the peace, and acts of aggression", stipulates the measures available to the Security Council, including mandatory economic sanctions. Under Article 41:

> "The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may

call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio and other means of communication, and the severance of diplomatic relations".

According to Article 49,

"The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council".

Article 50 provides:

"If preventive or enforcement measures against any State are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems."

4. The following sections present a summary of the actions taken by the Security Council and, at its request, by the Economic and Social Council, as well as by the General Assembly, that either constitute explicit applications or may be considered as implicit applications of the provisions of Article 50 of the Charter.

B. Security Council resolutions 232 (1966) and 253 (1968) concerning Southern Rhodesia (1966-1980)

5. The Security Council imposed a comprehensive set of economic and financial sanctions against Southern Rhodesia with resolutions 232 (1966) of 16 December 1966 and 253 (1968) of 29 May 1968, both adopted under Chapter VII of the Charter. In the course of the application of these resolutions, several Member States submitted communications in which reference was made to the particular economic difficulties arising for them from the implementation of the resolutions, as well as to Article 50 of the Charter. In some other cases, the requests for assistance did not invoke Article 50, and the subject-matter of the requests did not seem to fall entirely within the scope of the provisions of that Article. A review of the relevant cases follows.

1. Portugal and Malawi

6. In a letter dated 3 February 1967, 1/ Portugal informed the President of the Security Council, inter alia, that "... as a result of the carrying out of a number of measures ... the economy of the Portuguese province of Mozambique is suffering severe financial and economic losses ...". The letter further adds that "in terms of, and for the purposes of, Article 50 of the Charter, the Portuguese Government wishes that consultations be initiated between the Security Council and the Portuguese Government in order that the modalities for paying the compensation to which the province of Mozambique has a right, may be agreed upon".

7. The Government of Malawi, in a note verbale dated 15 February 1967 1/ addressed to the Secretary-General, referred to Article 50, pointing out that, "... in view of its geographical situation, Malawi is confronted with certain special economic problems ... The Government of Malawi is, however, ready to enter into consultations under the terms of Article 50 of the Charter if this is considered appropriate".

8. The Secretary-General referred, inter alia, to the communications from Portugal and Malawi in his report 2/ submitted to the Security Council in pursuance of resolution 232 (1966). However, no specific action was taken by the Security Council on those requests. As regards Mozambique, a request for consultation under Article 50 of the Charter was submitted by that Government after its independence from Portugal (see para. 18 below).

2. Zambia

9. The Secretary-General informed the President of the Security Council, in a note dated 6 February 1967, 3/ that the Government of Zambia had raised with him certain difficulties arising for Zambia as a result of its compliance with resolution 232 (1966). While the note did not contain any reference to Article 50, the difficulties reported by Zambia were those relating, in particular, to transportation, communications, storage of fuel and alternative supplies for some commodities.

10. The special economic problems of Zambia arising from the carrying out of the mandatory sanctions against Southern Rhodesia were first addressed by the Security Council in paragraph 15 of resolution 253 (1968), in which the Council requested Member States, the United Nations and organizations in the United Nations system to assist Zambia "with a view to helping it solve such special economic problems as it may be confronted with arising from the carrying out of these decisions of the Security Council". Although Article 50 of the Charter is not explicitly mentioned, paragraph 15 seems clearly to fall within the purview of that provision, as the reason for assisting Zambia are the special economic problems resulting from the implementation of mandatory Security Council measures. Subsequently, the Security Council adopted resolution 277 (1970) of 18 March 1970, paragraph 16 of which maintained with minor modifications the formulation of paragraph 15 of resolution 253 (1968).

11. By its resolution 327 (1973) of 2 February 1973, the Security Council decided to entrust the Special Mission referred to in paragraph 9 of resolution 326 (1973) with the task of assessing the economic needs of Zambia. The Security Council further commended the Government of Zambia for its decision to comply strictly with the sanctions imposed against Southern Rhodesia and recognized the special economic hardship caused to the country by such a decision. The assistance extended by the Security Council, consisting of the dispatch of the Special Mission, was thus explicitly motivated by the economic difficulties suffered by Zambia as a consequence of its implementation of the economic sanctions.

12. The Special Mission submitted its report 4/ to the President of the Security Council on 6 March 1973. As far as Zambia was concerned, the Special Mission, assisted by a team of six United Nations experts, focused on the

assessment of Zambia's needs in maintaining alternative systems of road, rail, air and sea communications for its normal flow of commercial traffic. The Security Council endorsed the assessment and conclusions of the Special Mission by its resolution 328 (1973) of 10 March 1973.

13. By resolution 329 (1973) of 10 March 1973, the Council once again appealed to all States for immediate technical, financial and material assistance to Zambia "to enhance its capacity to implement fully the mandatory sanctions policy"; and requested the United Nations, the organizations and programmes concerned, as well as the specialized agencies, to assist Zambia in the fields identified in the report of the Special Mission, "to enable it to carry out its policy of economic independence from the racist regime of Southern Rhodesia". The Council also requested the Economic and Social Council to consider periodically the question of economic assistance to Zambia.

14. Accordingly, the Secretary-General submitted on 30 April 1973 a report 5/ to the Economic and Social Council. That report provided, on the basis of the findings of the Special Mission dispatched under Security Council resolutions 326 (1973) and 327 (1973), a cumulative assessment of the needs of Zambia, with particular emphasis on the transport sector. The Secretary-General also reported on the assistance provided by the United Nations system pursuant to resolution 329 (1973) and informed the Council that, inter alia, he had designated Sir Robert Jackson, Under-Secretary-General, as coordinator of all actions involved with the implementation of assistance to Zambia within the United Nations system, and that he had designated the United Nations Development Programme (UNDP) Resident Coordinator in Zambia as the focal point in that country for coordinating such action. Several other missions were subsequently sent by the Secretary-General to Zambia in order to review its special economic problems, to assess the impact of international assistance and cooperation and to identify outstanding areas of need.

15. The Economic and Social Council adopted, between 1973 and 1979, a series of resolutions on the question of assistance to Zambia in view of its special economic problems arising out of the implementation of the economic sanctions against Southern Rhodesia. 6/ In these resolutions, the Economic and Social Council, inter alia, endorsed the oral statements made on behalf of the Secretary-General about the assistance provided to Zambia and the persisting needs of that country in view of its implementation of resolution 253 (1968); expressed its appreciation to those Member States which had contributed to the programme of assistance to Zambia; expressed concern at the insufficiency of the assistance provided in relation to the special economic problems of Zambia; and reiterated its appeal to provide more and greater assistance to that country. The Economic and Social Council periodically extended the United Nations programme of assistance to Zambia until 1980; requested the United Nations, its organizations and specialized agencies to make every effort to assist Zambia; and requested the Secretary-General to keep the situation under constant review, hold consultations with all concerned and ensure the coordination of the programme of assistance to Zambia.

16. The first consultative meeting on Zambia took place on 15 November 1973. During this meeting, the Coordinator for United Nations Assistance to Zambia pointed out, inter alia, that the appeal launched by the Security Council and the Economic and Social Council had generated a good response, allowing capital

costs for 1973 to be fully covered. Such consultative meetings were held subsequently on a yearly basis.

17. At its twenty-eighth session, the General Assembly adopted resolution 3173 (XXVIII) by which, inter alia, it commended those Member States which had responded positively to the appeals by the Security Council and the Economic and Social Council, renewed the appeal for more and greater contributions "to enable Zambia to maintain its normal flow of traffic" and requested the Secretary-General, in collaboration with the appropriate organizations of the United Nations system, to maintain his efforts to generate maximum assistance. The General Assembly also adopted, at its thirty-third session, resolution 33/131, which reiterated most of the provisions contained in the previous resolution, and also requested the Security Council to examine the situation in Zambia as a matter of urgency, in the context of Chapter VII, Articles 49 and 50, of the Charter, with a view to proposing additional measures of assistance to Zambia. The General Assembly adopted further resolutions at its thirty-fourth to thirty-sixth sessions on the question of assistance to Zambia, in the context of the appeals made by the Security Council in the above-mentioned resolutions.

3. Mozambique

18. In a telegram dated 10 March 1976 addressed to the President of the Security Council, the Minister for Foreign Affairs of Mozambique stated that the decision taken by the Government to impose sanctions against Southern Rhodesia involved serious economic consequences for Mozambique and, in conformity with Article 50 of the Charter, requested that a meeting of the Security Council be convened as a matter of urgency to consider the situation arising from the application of the sanctions.

19. On 17 March 1976, the Security Council adopted resolution 386 (1976) in which the Council, bearing in mind the provisions of Articles 49 and 50 of the Charter, commended Mozambique for its decision to sever all economic and trade relations with Southern Rhodesia; took note of its urgent and special economic needs; appealed to all States to provide immediate financial, technical and material assistance, so that Mozambique could carry out its economic development programme normally and enhance its capacity to implement fully the system of sanctions; requested the United Nations and the organizations and programmes concerned to assist Mozambique and to consider periodically the question of economic assistance to Mozambique; and requested the Secretary-General to organize all forms of financial, technical and material assistance to Mozambique to enable it to overcome the economic difficulties arising from its application of economic sanctions against the racist regime in Southern Rhodesia.

20. By its resolution 411 (1977) of 30 June 1977, the Security Council dealt once again with the hardship suffered by Mozambique in connection with the situation in Southern Rhodesia. No explicit mention was made of Article 50 of the Charter. In paragraphs 9, 10 and 11, the Security Council requested all States to give immediate and substantial material assistance to enable the Government of Mozambique to strengthen its defence capability in order to safeguard effectively its sovereignty and territorial integrity; requested all States, regional organizations and other appropriate intergovernmental

organizations to provide financial, technical and material assistance to Mozambique in order to enable it to overcome the severe economic loss and destruction of property brought about by the acts of aggression committed by the illegal regime in Southern Rhodesia and to reinforce Mozambique's capability to implement United Nations decisions in support of measures against the illegal regime; and requested the United Nations and the organizations and programmes concerned to provide assistance to Mozambique on a priority basis.

21. In this case, the request for assistance made by the Security Council seems to be based only partially on Article 50 of the Charter. Paragraph 9 of resolution 411 (1977), in particular, seems to remain outside of the scope of that Article, as it relates directly to the safeguard of the sovereignty and territorial integrity of the country and not to economic difficulties experienced by it as a consequence of the application of the sanctions. Also the "economic loss and destruction of property" mentioned in paragraph 10 of the same resolution are a direct consequence of military attacks launched by Southern Rhodesian forces against the territory of Mozambique rather than a consequence of the application by Mozambique of the sanctions against Southern Rhodesia.

22. The Economic and Social Council adopted several resolutions between 1976 and 1979 on the question of assistance to Mozambique. 7/ In these resolutions, the Council considered the reports submitted by the Secretary-General and expressed appreciation for the assistance provided to that country as well as concern for the fact that the assistance fell short of the amount required to enable Mozambique to deal with the special economic problems arising from its implementation of Security Council resolution 253 (1968). The Council also called upon States, and requested the United Nations and the organizations of the United Nations system, to provide an effective international programme of assistance; and drew particular attention to the special account established by the Secretary-General to receive contributions for the programme.

23. The General Assembly has had on its agenda since its thirty-first session an item on assistance to Mozambique, and has adopted several resolutions thereunder. It is noteworthy that the resolutions adopted after the independence of Zimbabwe and the consequent lifting of the sanctions continued to recall Security Council resolution 386 (1976) and the appeal contained therein, made by the Council pursuant to Articles 49 and 50 of the Charter. The Assembly, drawing upon the reports submitted by the Secretary-General, drew the attention of the international community to the additional assistance required by Mozambique; urged Member States and requested organizations of the United Nations system to maintain and, wherever possible, increase their assistance; and requested the Secretary-General to continue his efforts to mobilize the necessary resources, to keep the situation in Mozambique under review, and to report to the Assembly.

C. Security Council resolution 661 (1990) concerning the situation between Iraq and Kuwait

24. By its resolution 661 (1990) of 6 August 1990, the Security Council, acting under Chapter VII of the Charter, imposed mandatory sanctions against Iraq and the then occupied Kuwait. Subsequently, in the context of Article 50 of the

Charter, the Security Council received communications from 21 States, namely Bangladesh (S/21856), Bulgaria (S/21576), the former Czechoslovakia (S/21750), Djibouti (S/22209), India (S/21711), Jordan (S/21620), Lebanon (S/21686), Mauritania (S/21818), Pakistan (S/21776), the Philippines (S/21712), Poland (S/21808), Romania (S/21643), the Seychelles (S/21891), Sri Lanka (S/21710), the Sudan (S/21930), the Syrian Arab Republic (S/22193), Tunisia (S/21649), Uruguay (S/21775), Viet Nam (S/21821), Yemen (S/21748) and the former Yugoslavia (S/21618), that requested consultations with the Council. In the same or subsequent communications, those States provided information regarding the special economic problems arising from the carrying out by them of the measures contained in resolution 661 (1990).

25. It was for the first time in the history of the United Nations that such a large number of States addressed the Security Council on the basis of Article 50. While emphasizing their full adherence to the relevant Security Council resolutions, those States indicated grave economic, financial and commercial losses and costs incurred by them as a result of the implementation of the sanctions. Their total losses were estimated by them at more than US$ 30 billion.

26. By its resolution 669 (1990) of 24 September 1990, the Security Council entrusted its Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait with the task of examining requests for assistance under the provisions of Article 50 of the Charter and making recommendations to the President of the Security Council for appropriate action.

1. Jordan

27. Among the early requests for assistance considered by the Committee was that of Jordan, in many respects a unique case. Indeed, the vulnerability of Jordan, owing to its geographic location and the structure of its economy, placed that State in an extremely difficult situation by the crisis in the Persian Gulf, right from its outset, and particularly by the implementation of Security Council resolution 661 (1990).

28. Upon consideration of the application by Jordan, the Committee approved a special report (S/21786) dated 18 September 1990 to the Security Council, which contained a number of observations and recommendations. In particular, the Committee recognized the need to deal on a continuing basis with Jordan's unique economic difficulties as a result of the severance of its close economic relations with Iraq and Kuwait, as well as the urgent need to alleviate the problems experienced by Jordan as a result of the large influx of refugees and displaced persons from Iraq and Kuwait. The Committee also recommended follow-up measures towards the undertaking of a full assessment, with suggestions for appropriate remedies, of the special economic problems of Jordan, as well as the mobilization and coordination of international assistance. The Security Council approved the special report and, by a letter of its President (S/21826) dated 24 September 1990, asked the Secretary-General to proceed to implement the recommendations and actions contained in that report.

29. In the light of that report, the Secretary-General requested Mr. Jean Ripert, former Director-General for Development and International Economic Cooperation, to undertake a mission to Jordan to assess, in cooperation with the Government of Jordan, the problems resulting from the measures undertaken by it to comply with Security Council resolution 661 (1990), including especially the question of supply of petroleum and its derivatives, as well as to make suggestions for possible remedies. The findings outlined in Mr. Ripert's report, which was forwarded by a letter dated 22 October 1990 from the Secretary-General addressed to the President of the Security Council (S/21938), underscored the gravity of Jordan's situation and the urgent need to alleviate its hardships.

30. Accordingly, the Secretary-General addressed, on 30 October 1990, letters to the Foreign Ministers of all States, strongly supporting the Committee's appeal to provide immediate technical, financial and material assistance to Jordan to mitigate the consequences of the difficulties faced by it as a result of that crisis. Furthermore, by separate letters dated 22 November 1990 and 30 December 1990, respectively, the Secretary-General called on the relevant agencies, organs, organizations and bodies of the United Nations system to intensify their programmes of assistance in response to the pressing needs of Jordan. In those communications, which enclosed copies of the Committee's special report and the report of Mr. Ripert's mission, the Secretary-General requested all those concerned to provide him with all relevant information on their assistance to Jordan.

2. Action on requests for assistance from the other 20 affected countries

31. Pursuant to Security Council resolution 669 (1990), the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait set up, in October 1990, an open-ended working group to examine requests for assistance under Article 50 of the Charter and to advise the Committee on appropriate action. Accordingly, the Working Group considered, in 1990-1991, 20 individual cases referred to it. Those were applications submitted by the following States (listed in chronological order of the completion of consideration): Bulgaria, Tunisia, Romania, India, former Yugoslavia, Lebanon, Philippines, Sri Lanka, Yemen, former Czechoslovakia, Poland, Mauritania, Pakistan, Sudan, Uruguay, Viet Nam, Bangladesh, Seychelles, Syrian Arab Republic and Djibouti.

32. From the outset of its deliberations, the Working Group agreed that it should deal seriously, expeditiously, and realistically with all communications addressed to the Security Council in the context of Article 50. In this connection, the Working Group recognized that resource limitations as well as a lack of specialized expertise would limit the degree of analysis undertaken in each case. In view of this, the Working Group decided to take a broad approach while recognizing the particular nature of each situation. Accordingly, the Working Group developed a unified procedure for consideration, on a case-by-case basis, of the individual applications. That procedure involved both written submissions and oral presentations by the representatives of the applicant countries, as well as review of the relevant information provided by the secretariat (the then Department of International Economic and Social Affairs).

The Group also adopted a methodology comprising two sets of elements: for identifying the losses and additional costs arising from the carrying out of Security Council resolution 661 (1990); and for inclusion in observations and recommendations regarding specific requests for assistance. Those elements served as a general framework for the formulation by the Working Group of draft decisions on individual cases and their submission to the Committee.

33. On that basis, the Security Council Committee established by resolution 661 (1990) adopted a series of recommendations with regard to the 20 States having invoked Article 50 of the Charter. Those recommendations, accompanied by additional explanatory material provided by the applicant States, were set out in the letters dated 19 and 21 December 1990 and 19 March 1991, respectively, from the Chairman of the Committee addressed to the President of the Security Council (S/22021 and Add.1 and 2). Under each recommendation, the Committee recognized the urgent need to assist the affected country in coping with its special economic problems resulting from the severance of its economic relations with Iraq and occupied Kuwait (indicating specific losses and costs especially relevant in each case); appealed to all States to provide immediate technical, financial and material assistance to the country concerned in order to mitigate the adverse impact on its economy of the application of sanctions against Iraq; and invited the competent organs and specialized agencies of the United Nations system, including the international financial institutions and regional development banks, to review their programmes of assistance to the country in question, with a view to alleviating those hardships.

34. By letters dated 21 December 1990 and 21 March 1991 respectively (S/22033 and S/22398), the President of the Security Council informed the Secretary-General of the above-mentioned recommendations of the Committee in connection with requests for assistance under Article 50 of the Charter and requested him to implement the actions contained in the recommendations. Accordingly, the Secretary-General addressed, on 23 January and 9 April 1991, letters to the Foreign Ministers of all States and to the relevant bodies, organizations and agencies of the United Nations system, including the international financial institutions and the regional development banks, strongly supporting the recommendations of the Committee with regard to follow-up actions. In particular, the Secretary-General requested States and organizations concerned to provide him, on a regular basis, with information on action taken by them to alleviate the special economic problems of the affected States. Most of the replies that had been received by the Secretary-General from the Governments of donor countries were issued, at their request, as documents of the Security Council, while the information provided by the international financial institutions was also made available to the Council.

3. Collective memorandum of the 21 affected States

35. By a letter dated 22 March 1991 (S/22382), the representatives of Bangladesh, Bulgaria, the former Czechoslovakia, Djibouti, India, Jordan, Lebanon, Mauritania, Pakistan, the Philippines, Poland, Romania, the Seychelles, Sri Lanka, the Sudan, the Syrian Arab Republic, Tunisia, Uruguay, Viet Nam, Yemen and the former Yugoslavia submitted to the President of the Security Council a collective memorandum in which they stated, inter alia, that: "The problems affecting these countries persist, and in certain respects have been

aggravated, while the appeals launched pursuant to the recommendations of the Security Council Committee and addressed to all concerned by the Secretary-General, have not evoked responses commensurate with the urgent needs of the affected countries." In the light of that situation, the 21 States launched "a collective appeal, particularly to all donor States, to respond urgently and effectively in providing assistance to the affected countries by allocating additional financial resources both through bilateral channels and by supporting the actions of the competent organs and specialized agencies of the United Nations system". The affected countries expressed their belief that, "given the magnitude of the difficulties they face, the Security Council should give renewed attention to these problems with a view to finding quick and effective solutions".

36. In this connection, the members of the Security Council, at the informal consultations held on 27 March 1991, expressed their wish to be briefed by the Secretary-General on the response of the international community to the situation of Member States confronted with special economic problems arising from the application of sanctions against Iraq, and the then occupied Kuwait, pursuant to Council resolution 661 (1990). In response to that request and in accordance with the recommendations regarding those affected States that had been earlier adopted by the Security Council Committee established by resolution 661 (1990), the Secretary-General made an oral report to the members of the Council at the informal consultations held on 11 April 1991. In that report, the Secretary-General outlined the main features of the replies that had been received by him from Governments and the competent organs and agencies of the United Nations system, including the international financial institutions, regarding the assistance provided by them to States having invoked Article 50 of the Charter. In conclusion, he expressed his strong support for the collective appeal launched by those 21 affected States in their memorandum to the Council.

37. In addition, the Secretary-General brought the matter to the attention of the Administrative Committee on Coordination (ACC), at its first regular session for 1991, held in Paris from 17 to 19 April 1991, in the context of a broader agenda item on economic and social impact of the Gulf conflict and its implications for international cooperation. In this connection, the Secretary-General further informed the Security Council, in informal consultations held on 26 April 1991, that ACC had discussed the matter and its members agreed to pursue vigorously their efforts to respond effectively to the needs of the countries most affected by the implementation of resolution 661 (1990) and keep him informed of their activities. The Secretary-General undertook to coordinate through ACC, within the framework of this assistance, the activities of organizations of the United Nations system.

38. Upon consideration by the members of the Security Council of the memorandum submitted by the 21 States having invoked Article 50 of the Charter, the President of the Security Council made a statement, on behalf of the Council, at its 2985th meeting on 29 April 1991, in connection with the Council's consideration of the item entitled "The situation between Iraq and Kuwait" (S/22548). By that statement, the members of the Security Council took note of the Secretary-General's oral reports of 11 and 26 April 1991. They also took note of the replies from a number of States (Austria, Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Luxembourg on behalf of the European Community and its 12 member States, Netherlands,

New Zealand, Norway, Portugal, Spain, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America and USSR) that had furnished specific information on the assistance provided by them to various affected countries, as well as the replies received from the President of the World Bank and the Managing Director of the International Monetary Fund (IMF). They invited other Member States and international financial institutions and organizations to inform the Secretary-General as soon as possible of the measures taken by them on behalf of the States having invoked Article 50. Furthermore, the members of the Security Council made "a solemn appeal to States, international financial institutions and United Nations bodies to respond positively and speedily to the recommendations of the Security Council Committee, established under resolution 661, for assistance to countries which find themselves confronted with special economic problems arising from the carrying out of those measures imposed by resolution 661 and which have invoked Article 50". That statement was communicated to all concerned on 3 May 1991.

D. Security Council resolutions 713 (1991), 724 (1991), 757 (1992), 787 (1992) and 820 (1993) concerning Yugoslavia

39. By its resolutions 713 (1991) of 25 September 1991, 757 (1992) of 30 May 1992, 787 (1992) of 16 November 1992 and 820 (1993) of 17 April 1993, the Security Council, acting under Chapter VII of the Charter, imposed an arms embargo against the territory of the former Socialist Federal Republic of Yugoslavia, as well as a comprehensive set of sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro). In its resolution 757 (1992), the Security Council recalled the right of States, under Article 50 of the Charter, to consult the Security Council where they find themselves confronted with special economic problems arising from the carrying out of preventive or enforcement measures.

40. At the consultations of the whole, held on 13 April 1993, the members of the Security Council requested the Security Council Committee established pursuant to resolution 724 (1991) to meet on an urgent basis to consider, in the context of Article 50 of the Charter, the communications received from States that found themselves confronted with special economic problems arising from the carrying out of the measures contained in the relevant resolutions of the Security Council and to submit to the Council a report, with the Committee's recommendations, as soon as possible. Subsequently, the Security Council, by its resolution 843 (1993) adopted on 18 June 1993, confirmed that the Committee established pursuant to resolution 724 (1991) was entrusted with the task of examining requests for assistance under the provisions of Article 50 of the Charter; welcomed the establishment by the Committee of its working group and invited the Committee, upon completion of the examination of each request, to make recommendations to the President of the Security Council for appropriate action.

41. To date, seven States (Albania (S/AC.27/1993/COMM.5024), Bulgaria (S/24963), Hungary (S/24147), Romania (S/24142 and Add.1), Slovakia (S/25894), former Yugoslav Republic of Macedonia (S/AC.27/1993/COMM.3396) and Ukraine (S/25630)) have, in accordance with Article 50 of the Charter, requested consultations with the Security Council. In the same or subsequent

communications, those States provided information regarding the special economic problems with which they had been confronted arising from the implementation of the measures contained in the relevant Security Council resolutions. In addition, Uganda (S/AC.27/1993/COMM.2530) submitted a request for assistance in connection with its economic difficulties arising from the interruption of a vital road construction project by a Yugoslav firm as a consequence of the Government's implementation of the sanctions.

42. At its 65th meeting, held on 30 April 1993, the Security Council Committee established pursuant to resolution 724 (1991) set up an open-ended working group to examine requests for assistance under Article 50 and to advise the Committee on appropriate action. Accordingly, the Working Group deliberated the above-mentioned requests and submitted to the Committee its report, with six draft decisions formulated to date (see below). In its consideration of the requests, the Working Group drew upon the procedure and methodology of the Working Group established pursuant to Security Council resolution 669 (1990) concerning the situation between Iraq and Kuwait.

43. At its 73rd meeting, held on 2 July 1993, the Committee adopted without objection as recommendations to the President of the Security Council the draft decisions submitted by the Working Group with regard to Bulgaria, Hungary, Romania, Uganda and Ukraine (S/26040). At its 81st meeting, held on 4 August 1993, the Committee adopted a further recommendation with regard to Albania (S/26040/Add.1). The Committee also decided that it would, with the concurrence of an applicant State, transmit, together with the relevant recommendation, the text of the memorandum and any additional explanatory material which the State had provided in its presentation.

44. Under each recommendation, the Committee recognized the urgent need to assist the affected country in coping with its special economic problems resulting from the severance of its economic relations with the Federal Republic of Yugoslavia (Serbia and Montenegro), especially commercial and financial losses incurred by that country; appealed to all States on an urgent basis to provide immediate technical, financial and material assistance to the country concerned to mitigate the adverse impact on its economy of the application by it of sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro); invited the competent organs and specialized agencies of the United Nations system, including the international financial institutions and the regional development banks, to consider how their assistance programmes and facilities might be helpful to the country in question, with a view to alleviating its special economic problems arising from the application of sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro); and requested the Secretary-General on a regular basis to seek information from States and the concerned organs and agencies of the United Nations system on action taken to alleviate the special economic problems of the affected country and to report thereon to the Security Council.

45. By letters dated 6 July and 9 August 1993 respectively (S/26056 and S/26282), the President of the Security Council informed me, by agreement of all the members of the Council, of the above-mentioned recommendations and requested me to implement the actions contained therein as appropriate. Accordingly, I addressed, on 21 July and 13 September 1993, letters to the Foreign Ministers of all States, as well as to the executive heads of the competent organs and

specialized agencies of the United Nations system, including the international financial institutions and the regional development banks, expressing my strong support for the recommendations of the Committee regarding the follow-up action. In those communications, I also requested States and the organizations concerned to provide me, on a regular basis, with information on action taken by them to alleviate the special economic problems of the affected States.

46. In response, I have thus far received replies from 11 States and 16 international organizations concerned. By a letter of 14 September 1993, I forwarded copies of the replies received as of that date to the President of the Security Council for information and appropriate action. Following consultations of the whole of the Security Council, held on 20 September 1993, those communications were transmitted to the Security Council Committee established pursuant to resolution 724 (1991), and subsequently to its Working Group, for consideration. To expedite matters, under a revised procedure, additional replies are directly forwarded to the Committee and therefrom to its Working Group.

E. Security Council resolution 748 (1992) concerning the Libyan Arab Jamahiriya

47. At its 3063rd meeting, held on 31 March 1992, the Security Council, acting under Chapter VII of the Charter of the United Nations, adopted resolution 748 (1992) imposing a regime of mandatory sanctions against the Libyan Arab Jamahiriya.

48. By paragraph 9 of the same resolution, the Security Council decided to establish a Committee of the Security Council, consisting of all the members of the Council, to undertake a number of tasks relating to the implementation of those mandatory measures. Under paragraph 9 (f) of the resolution, the Committee was entrusted, inter alia, with the task of giving "special attention to any communications in accordance with Article 50 of the Charter from any neighbouring or other State with special economic problems that might arise from the carrying out of the measures imposed by paragraphs 3 to 7" of the resolution.

49. To date, Bulgaria and the Sudan have expressed the intent to submit or submitted communications, in the context of the provisions of Article 50 of the Charter of the United Nations.

50. In a letter dated 15 May 1992 (S/23939), Bulgaria informed me of the measures that it had instituted to implement the sanctions imposed by resolution 748 (1992) and also expressly stated its intention to submit, in exercise of its right under Article 50 of the Charter, a memorandum on the specific problems arising for Bulgaria in consequence of the sanctions against the Libyan Arab Jamahiriya, and on need to render assistance to the Bulgarian Government for eliminating these unfavourable consequences. However, no subsequent communication was received from Bulgaria.

51. The Sudan, in a communication dated 4 June 1992 (S/AC.28/1992/COMM.14) to the Security Council Committee established pursuant to resolution 748 (1992), detailed the adverse economic consequences for the Sudan of compliance with

resolution 748 (1992). This position was reiterated in a subsequent letter dated 14 August 1992 (S/24448) addressed to me. These two communications, however, did not explicitly invoke Article 50 or contain a direct request for assistance. Consequently, no specific action was taken by the Security Council on those two cases.

II. DELIBERATIONS BY OTHER UNITED NATIONS INTERGOVERNMENTAL BODIES

52. The Security Council, in the statement by its President of 30 December 1992 concerning the question of special economic problems of States as a result of sanctions imposed under Chapter VII of the Charter (S/25036), noted, inter alia, that the matter was being considered in other forums of the United Nations. For the benefit of the Council and for the purpose of the present report, it seems to be in order to review the recent deliberations on the issue by the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, and of the General Assembly at its forty-seventh session. A brief summary follows.

A. Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

53. At the forty-seventh session of the Special Committee, held in February 1992, 8/ a working paper on "implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter" was introduced by a group of 33 sponsors (A/AC.182/L.73). The working paper, which the sponsors described as of a preliminary nature to initiate further consideration of the item, noted that the imposition of sanctions under Chapter VII of the Charter might require the joint efforts of Members of the United Nations to assist third States economically affected by the sanctions and underlined the importance within Chapter VII of Articles 49 and 50 in this respect. The working paper further recalled the requests for consultations made by 21 States affected by the sanctions imposed against Iraq with resolution 661 (1990), and the actions taken by the Security Council Committee established by that resolution as well as by the Security Council in response to those requests. The working paper concluded that adequate arrangements were lacking for the implementation of Articles 49 and 50, and that the elaboration of appropriate institutional mechanisms for responding quickly to requests for assistance in such situations was an issue that warranted urgent consideration and that could mitigate the adverse economic and social problems confronted by States and strengthen the cooperation among them in the implementation of sanctions.

54. The representative who introduced the working paper added that the available practice highlighted the need for establishing an automatic mechanism to ensure adequate responses to requests for assistance under Article 50, which would promote the implementation of Chapter VII and diminish the resistance of States seriously affected by sanctions in their application. The representative recalled the precedent of Article XVI.3 of the Covenant of the League of Nations and the reports of the Collective Measures Committee of the General Assembly, as

confirming the assumption that the concept of "mutual assistance" embodied in Article 49 aimed at an equitable sharing of the economic costs of implementing mandatory sanctions. The representative concluded by noting that another question to be faced was who would have to bear the costs of providing assistance.

55. In the debate that followed, members of the Special Committee generally supported the basic concepts underlying the working paper. Many delegations supported the idea of sharing the costs of a system of collective security, and the principle of "mutual assistance". Some delegations noted that the working paper did not contain any specific solution to the problems highlighted therein, and made proposals such as the establishment of a fund to be financed by assessed contributions, or exploring ways for providing alternative sources of assistance; another representative noted that the problem under discussion was but one of the aspects that proved the need for guidelines on "sanctions management".

56. Other delegations, however, expressed preference for a cautious approach, as Article 25 of the Charter created an unconditional obligation to apply mandatory sanctions, and Article 50 confined itself to providing for a right to consult the Security Council. It was suggested, inter alia, that the most appropriate solution to the question presented in the working paper might be the development of procedures aimed at facilitating consultations between the Security Council and the affected States.

57. As to the competent forum for dealing with the subject-matter at hand, some delegations felt that that fell within the competence of the Special Committee, possibly in strict cooperation with any Committee established by the Security Council in connection with the imposition of sanctions. Other delegations, however, felt that it was not the function of the Special Committee to find solutions to specific cases. The sponsor that introduced the working paper suggested, at the end of the discussion, that the establishment of a permanent committee on sanctions, or an ad hoc committee each time economic sanctions were imposed, was an idea that merited serious consideration in connection with the implementation of Article 50.

58. At the forty-eighth session of the Special Committee 9/ held in March 1993, two working papers, in the form of draft General Assembly resolutions, were introduced by a group of 19 sponsors (A/AC.182/L.76/Rev.1) and by India and Nepal (A/AC.182/L.77), respectively. Both working papers centred on the establishment of a fund to assist third States affected by the imposition of sanctions under Chapter VII of the Charter; in both working papers, the fund would be financed partly through a percentage of assessed contributions, partly through voluntary contributions. However, in draft resolution A/AC.182/L.76/Rev.1 the fund was to be established by the General Assembly, and the Secretary-General was requested to prepare draft guidelines on the operation of the fund, for approval by the Security Council and the Assembly. The working paper provided that resources should be utilized to provide direct financial assistance as well as to finance technical assistance projects, and encouraged all other types of support, particularly in the area of foreign trade. In draft resolution A/AC.182/L.77, instead, a trust fund was to be established by the Security Council on a case-by-case basis as part of its resolutions imposing sanctions under Chapter VII and operated by the Council itself. The Council was

also called upon to take other measures in consultation with Member States and international financial institutions, such as additional bilateral credit lines or assistance for export and investment promotion and technical cooperation projects in the affected countries.

59. The discussion that took place both in the plenary and in the Working Group of the Special Committee brought forth a wide range of views. Some delegations stressed the insufficiency of the current system of applications of Article 50, and supported the establishment of a special fund and the preparation of a set of general guidelines. Another view supported a case-by-case treatment of the affected States; while others stressed that a fair allocation of funds in relation to the relative impact of sanctions on individual States would necessitate the establishment of a distinct mechanism to provide the Security Council, before the imposition of sanctions, with studies and data concerning the economies of possibly affected States. It was also stressed that Article 50 should receive a functional interpretation, so that the right to consult should lead to some practical results.

60. Some delegations expressed reservations as to the creation of a special fund or the use of a percentage of assessed contributions or of voluntary contributions. It was stated that the current system of assistance had worked effectively in a number of cases and should be used for addressing the issue at hand. In that connection, some delegations highlighted the role played by the international financial institutions, inter alia, in the evaluation of the damages suffered by the affected States. It was pointed out that Article 50 did not give a right to compensation but only to consult the Security Council; in that connection, it was stressed that there should be a clear preliminary understanding of the relevant Charter provisions pertaining to the system of preventive or enforcement measures, of the past experience under Article 50 and of the questions of causation and assessment related to the impact of sanctions on a country's economy. Those delegations stressed the need for flexibility in the treatment of requests for assistance, which should rather be treated on a case-by-case basis.

61. It was proposed by some delegations that consideration of the issue by the Special Committee should be deferred until the publication of the report of the Secretary-General on Article 50 of the Charter. Other delegations noted that consideration of the issue in the Special Committee could not proceed on the basis of a draft resolution. The working papers could serve as a frame of reference for the Committee, which should limit itself for the moment to an exchange of views on the substantive aspects of the application of Article 50, on the functioning of the current system of implementation, and on whether it was necessary or feasible to put in place new mechanisms, of an ad hoc or permanent nature.

B. Informal Open-ended Working Group of the General Assembly on Agenda Item 10: report of the Secretary-General on the work of the Organization, including "An agenda for peace: preventive diplomacy, peacemaking and peace-keeping"

62. The Informal Open-ended Working Group of the General Assembly on Agenda Item 10 was established by the President of the forty-seventh session of the Assembly to consider, in particular, the recommendations contained in my report "An agenda for peace". As part of its work programme for spring 1993, the Working Group discussed the recommendations related to the issue of special economic problems arising from the implementation of preventive or enforcement measures (Art. 50 of the Charter), starting in March 1993.

63. During the discussions, similar proposals and issues were addressed as at the forty-seventh and forty-eighth sessions of the Special Committee described in section II A above. In addition, it was suggested that the Security Council should be encouraged to consider initiating a study on the effectiveness and management of various types of sanctions, as well as on verification of compliance with sanctions regimes. Ways and means of compensating those countries that find themselves confronted with special economic problems as a result of the carrying out of sanctions should, according to this proposal, be part of such a study. It was also proposed that, in considering the adoption of sanctions in the future, the Council should ask for an "economic impact statement" to be prepared by the Secretariat before taking any final decision. A proposal to establish a trust fund for compensation within the framework of Article 50 of the Charter was also introduced during the discussion. However, some delegations expressed their reservations regarding such a proposal. In their opinion, there should be no automaticity involved.

64. On 21 May 1993, I addressed the Working Group with a statement presenting a review of actions taken by me in response to General Assembly resolution 47/120 and statements by the President of the Security Council concerning "An agenda for peace". As regards Article 50, I referred to my consultations with Member States, the heads of the international financial institutions and other components of the United Nations system for the preparation of the present report. In that connection, I observed:

> "I consider this question to be a matter of urgency. Appeals to deal with the economic impact of sanctions have depended so far on the political will of countries in a position to provide assistance or on the capacity of the financial institutions to respond. At present, there is no mechanism to address the spirit of Article 50 effectively and systematically. Subsidiary bodies have dealt with sanctions on an ad hoc basis, such as the Sanctions Committee on Yugoslavia. A case-by-case approach can provide needed flexibility. But as sanctions become a more commonly used instrument, more permanent structures may be needed to study and deal with ensuing economic problems. A permanent mechanism for consultations between the Security Council, the Secretary-General and the international financial institutions, as well as Member States, may be needed."

I am gratified by the support given to my views on the matter by many Member States and international organizations concerned.

65. The process of debate in the General Assembly on "An agenda for peace" resulted in Assembly resolution 47/120 B adopted on 20 September 1993. On the whole, the resolution is an important step forward in the follow-up to "An agenda for peace" and towards the realization of a new international consensus and framework for action in the field of international peace and security. It expresses general support for the concepts of preventive diplomacy, peacemaking, peace-keeping and post-conflict peace-building. It also provides invaluable guidance for strengthening the capacity of the United Nations to respond to a world in a state of rapid transition. Some sections of the resolution, however, require further action, both by the United Nations system and by intergovernmental bodies. These include, in particular, section IV entitled "Special economic problems arising from the implementation of preventive or enforcement measures".

66. In that section of the resolution, the General Assembly decided to continue its examination of ways to implement Article 50 of the Charter of the United Nations, with a view to finding solutions to the special economic problems of other Member States when preventive or enforcement measures were decided upon by the Security Council against a State. The Assembly invited the Security Council to consider what could be done within the United Nations system and involving international financial institutions with regard to solutions to the special economic problems of States arising from the carrying out of the measures imposed by the Council; this consideration may include, inter alia, the following measures:

"(a) Strengthening of the consultative process for studying, reporting on and suggesting solutions to the special economic problems, with a view to minimizing such economic problems through consultations with States adversely affected or, as appropriate, with States likely to be adversely affected as a result of their implementing the preventive or enforcement measures, as well as with the Secretary-General, the principal organs, programmes and agencies of the United Nations and international financial institutions;

"(b) Other measures, in consultation with Member States and, as appropriate, with international financial institutions, such as voluntary funds to provide assistance to States experiencing special economic problems arising from carrying out the measures imposed by the Security Council, additional credit lines, assistance for the promotion of exports of the affected countries, assistance for technical cooperation projects in such countries and/or assistance for the promotion of investment in the affected countries".

67. The Assembly also invited the committees of the Security Council and other bodies entrusted with the task of monitoring the implementation of preventive and enforcement measures to take into account, in discharging their mandates, the need to avoid unnecessary adverse consequences for other Member States, without prejudice to the effectiveness of such measures. Finally, the Assembly requested the Secretary-General to report annually to the General Assembly on the implementation of Article 50 of the Charter.

68. In my statement to the General Assembly following the adoption of resolution 47/120 B on "An agenda for peace", I welcomed the Assembly's positive response

on the subject of special problems arising from the implementation of preventive or enforcement measures. Most importantly, the Assembly recognized that immediate solutions should be found to such problems, provided Member States wished such measures to be effective, in situations where they were applied as an alternative to the use of force. I remain hopeful, therefore, that the implementation process will now proceed vigorously; and I will do my best to facilitate this process.

III. EXPERIENCE GAINED IN THE APPLICATION OF ARTICLE 50: PROGRESS ACHIEVED AND CONSTRAINTS ENCOUNTERED BY THE UNITED NATIONS

69. In various discussions on the implementation of Article 50 of the Charter of the United Nations, several issues have been raised with regard to the role of the United Nations system as a whole in its pursuit of solutions to the special economic problems of States as a result of the application of preventive or enforcement measures. In broad terms, these relate to the identification and assessment of such problems; the current practice and procedures for consideration of requests for assistance; and the available mechanisms and instruments for the follow-up to the agreed course of action. It seems important, therefore, to take stock, in a concise and integrated manner, of the experience gained by the United Nations, including the progress achieved and constraints encountered, in this area. The following analytical summary is intended to clarify the key points involved, with a view to enhancing international cooperation in support of the affected States and the relevant activities of the United Nations system.

A. Identifying and assessing the special economic problems of States as a result of sanctions imposed under Chapter VII of the Charter of the United Nations

1. General methodology/criteria for the analysis

70. In circumstances when peacemaking requires the adoption by the Security Council of preventive or enforcement measures against a State under Chapter VII of the Charter, the overall impact of the underlying conflict or crisis on the economic situation of other States may be larger than the direct effect of the application by them of those measures. One recent example was the Gulf crisis that produced, at least for a short- to medium-term period, a multiple adverse impact on the world economy as a whole and particularly the national economies of several oil-importing countries. The current conflict situation, in its entirety, in the territory of the former Yugoslavia adversely affects the economies of the region and beyond in a variety of ways that are not always directly related to the sanctions. Moreover, many of the neighbouring countries and other trading partners of the Federal Republic of Yugoslavia (Serbia and Montenegro) are undergoing a critical period of transition to a market-oriented economy, with all its difficult implications and policy-induced adjustments.

71. For this reason, a clear distinction should be made between the direct effects for a national economy resulting from the imposition of restrictions on

economic relations with a target State and the indirect consequences of the events caused by the crisis situation or other developments that adversely affect either individual States or the global economy. In many cases, however, it may be difficult to disentangle the effects, particularly when the estimates have to be based on deviations from the trend. In any event, the analysis of the full range of special economic problems that may arise from the carrying out of preventive or enforcement measures requires a sufficiently broad and flexible approach in order to take into account all relevant circumstances and factors in each case. At the same time, such an approach equally needs to be focused, precise and operational.

72. Given the above considerations, the main emphasis of a methodology/criteria for the analysis of special economic problems referred to in Article 50 of the Charter should be placed on identifying specific types of losses and additional costs that may be incurred by States as a direct result of measures carried out by them in compliance with a given resolution or a series of resolutions adopted by the Security Council under Chapter VII of the Charter. As the scope of such measures may differ from case to case, so does the type of the resulting losses and costs. In general, they may include those relating to complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio and other means of communication and the severance of diplomatic relations, as Article 41 provides. In this context, resolution-specific framework criteria may need to be developed for assessing particular situations of the affected States on a case-by-case basis and over a certain period of time.

73. As regards multilateral economic measures, there are three main ways in which the Security Council may request the international community to impose mandatory sanctions against a target State: (a) by limiting or restricting exports and/or imports; (b) by impeding financial transactions, including foreign aid, and freezing financial assets; and (c) by interrupting any other type of economic relations and/or means of communication. Most of the recent cases have involved a combination of various types of economic sanctions - either of a comprehensive nature, as in the cases of Iraq and the Federal Republic of Yugoslavia (Serbia and Montenegro), or on a sectoral scale, as in the case of the Libyan Arab Jamahiriya. Accordingly, a general framework for identifying special economic problems arising from the carrying out of those measures should include, basically, three broad categories of specific losses and costs: (a) those relating to the trade links with a target country; (b) those relating to the financial links with a target country; and (c) those relating to sectoral or other special links with a target country. In addition to the direct effects of the resolution-related measures, indirect consequences of the crisis situation can be also identified, when necessary.

74. Specifically, trade-related losses and costs may be divided into those relating to exports and imports. Losses on the export side may include (a) undelivered regular merchandise exports that cannot be easily diverted to other buyers (exports foregone); (b) outstanding orders for contracted future delivery and for which production has already started; (c) suspended sales of services in engineering and construction activities being implemented or contracted by the sanctioned State; and (d) stopped transport, transshipment and communication and related services (by vessel, aircraft, freight vehicles, rolling stock, pipelines and related maintenance servicing, port duties,

packaging activities, etc.). Similarly, losses on the import side may include (a) undelivered regular merchandise imports, in particular traditional goods, that cannot be easily obtained from other sources (imports foregone); (b) lost or suspended imports at subsidized prices or under particularly advantageous financial terms and conditions, e.g. imports of petroleum and petroleum products from Iraq; (c) outstanding orders for contracted future imports of goods; and (d) terminated or suspended imports of services.

75. The above export-related losses adversely affect the balance-of-payments position and can result in a substantial economic loss. It should be noted, however, that the balance-of-payments loss from exports foregone (decrease in foreign exchange availability) should be calculated net of the cost of imports that the affected country would have used to produce the corresponding exports. The economic loss is not the same as the loss in foreign exchange, because part of the resources can be used for domestic purposes. The foreign exchange loss would normally exceed the economic loss. However, that may not always be the case, particularly, if the loss of certain imports, e.g. cancelled contracts for delivery of petroleum and petroleum products from Iraq to several countries or of electricity from the Federal Republic of Yugoslavia (Serbia and Montenegro) to Romania, cannot be easily replaced and the lack of those imports, owing to their critical importance, can lead to disruption in productive activities. In terms of variables underlying financial requirements of affected countries, the losses on the import side when the imports can be replaced are only the direct subsidy (price discount) or the interest payments differential if the lost imports used to be obtained through concessional financial conditions.

76. Financial difficulties that arise from sanctions may comprise those relating to suspended capital flows or aid, where applicable, and debt servicing. Losses and difficulties arising from the suspension of capital flows may include (a) lost remittances of profits or other income, e.g. remittances of migrant workers; (b) confiscation, freezing and conversion (at well below market exchange rates) of savings or assets; (c) suspended loans and credits at subsidized rates; and (d) lost grants, where applicable. In the case of Iraq, several developing countries reported substantial losses of this type, as well as reduction in finance from Iraq- and Kuwait-based institutions such as the Arab Fund for Economic and Social Development and the Kuwait Fund for Arab Economic Development. Losses and difficulties on account of debts not being serviced may also take various forms of unreceived payments from the sanctioned State, including those through discontinued or suspended commodity deliveries. For example, under the current sanctions regime, Iraq's foreign debts that were undertaken against future oil deliveries remain outstanding.

77. On the whole, all the financial losses and difficulties indicated above have a direct negative impact on the balance of payments of the countries concerned. However, for credits and grants, the critical variable is the programmed or expected disbursement, rather than a commitment. Moreover, those financial flows should be estimated net of interest and amortization payments owed to the target country by the affected country and whose payment has been suspended. In the short run, most of financial disruptions have a negative economic impact on the affected country. In the longer term, if and when alternative finance is found, the economic loss with respect to investment, credit or grant should be given by the difference in interest paid. As regards the outstanding debts, the lack of payments due from the target country, until

the debt servicing is resumed in all appropriate forms, continues to affect adversely the balance-of-payments position of the affected country.

78. The type of special or ad hoc losses and additional costs arising from restrictions on sectoral or other particular links with a target country largely depend on two sets of economic variables: (a) the specific nature of the sanctions and their duration; and (b) the structure and intensity of those interrupted links. Among political variables, most essential are specific developments in the course of the crisis, particularly those relating to the evolution of the situation inside the target country and its reaction to the multilateral sanctions. For example, in the case of sanctions against Iraq, reported costs and losses of this type included (a) costs of provision of food and medicines to foreigners by their country of origin; (b) costs of repatriation and resettlement of returning foreign workers in their country of origin; (c) in the case of Jordan, additional costs on account of the huge inflow of the refugees (e.g. provision of services); (d) in countries having been supplied by Iraqi oil, underutilization of oil-refining capacity (in the absence of equivalent); (e) discontinuation of joint ventures; and (f) cuts in technical assistance. While the three latter elements as indicated above have been generally recognized as direct effects of the resolution-related measures, opinions differ as to whether the three former elements should rather be attributed to the general impact of the Gulf crisis.

79. In the case of sanctions against Yugoslavia, reported costs and losses of a special or sectoral nature relate mainly to transportation, e.g. transshipment of goods, joint ventures and tourism. The balance-of-payments costs associated with the transportation problems could include lower receipts (as claimed by the Ukrainian Danube Shipping Company) and/or higher payments for transportation services due to rerouting, monitoring costs and/or delays (as claimed by Bulgaria and Romania). In addition to freight and insurance charges and passenger fares, affected transport fees could include river, canal, port, pipeline and airport landing fees, customs fees and fees from servicing transport equipment from the target country. As a result of sanctions on trade and services, cessation of joint ventures may result in lost contractors' fees, profit remittances and lower exports (e.g. Romania). Furthermore, as an indirect effect on demand for the permitted services, the transit restrictions may affect receipts from tourism in the region (e.g. Ukraine). Beyond the balance-of-payments costs, a variety of other costs, including those relating to such largely domestic variables as the fiscal budget, investment, output and employment, were also reported.

80. With regard to various types of losses and costs, a distinction can be made between the "recurrent" and "once-and-for-all" losses and costs. Examples of the former are exports or imports forgone and the increased cost of transport or transshipment and related services; examples of the latter are the cessation or cancellation of activities contracted in the target country and freezing in the target country of foreign assets and savings. Over a medium-term period, an affected country needs to find alternative uses for its material or financial resources that are released as a result of the sanctions and can no longer be devoted to exports of goods and services to the target country. If successful, these recurrent losses can, to a large extent, cease to exist. Thus, an estimate of the losses and costs from a given resolution-related measure is a direct function of the time horizon for such an assessment. For this reason, it

may be suitable to concentrate, within the consideration of requests for assistance, on direct short-term effects for the period from six months to one year, whose estimates can be further updated in the light of the evolution of the situation.

81. The capacity of an affected country to absorb losses and higher costs arising from the implementation of multilateral sanctions depends on several internal and external economic factors, prior to and after the imposition of sanctions. In some cases, the impact of the sanctions can be of devastating proportions. The relevant factors include the general economic situation, the structural rigidities, the balance-of-payments position, particularly the level of international reserves, the fiscal budget constraints, the social and employment situation and the adequacy of safety nets. These factors should also be taken into account within an overall assessment of the specific situation of an affected country. In this context, the quantification of the impact on the balance-of-payments position and fiscal budget is particularly important, with a view to mobilizing international assistance of an adequate level and type as well as helping the affected countries frame appropriate adjustment programmes.

2. Specific situations/case-by-case approach

82. Experience gained in the application of Article 50 shows that the specific situations of countries confronted with special economic problems arising from the carrying out of measures imposed under Chapter VII of the Charter may vary substantially from case to case. Among various affected countries, those nations that are contiguous with the sanctioned State and/or have close economic relations with that State tend to experience a myriad of most severe hardships as a direct result of the sanctions. As the extent of such problems is a function of the intensity of the links, owing to geographic location or economic structures, a case-by-case approach offers the needed flexibility for assessing the actual losses and costs incurred by the affected country, identifying particular areas of need and formulating remedial measures of assistance. For the most severely affected countries, these tasks can be best served by a United Nations mission being dispatched on the spot to perform its specific mandate in cooperation with the Government concerned.

83. In the case of sanctions against Southern Rhodesia, such missions visited Zambia and Mozambique, pursuant to the relevant decisions of the Security Council. In accordance with paragraph 3 of Security Council resolution 327 (1973), the Special Mission, consisting of four members of the Security Council and assisted by a team of six United Nations experts, was entrusted with the task of assessing the needs of Zambia in maintaining an alternative system of road, rail, air and sea communications for the normal flow of traffic. The mission's report 4/ clearly demonstrated the economic needs of Zambia and set out detailed proposals for international assistance. On this basis, the Security Council, in its resolution 329 (1973), appealed to all concerned to provide economic assistance to Zambia in the areas identified by the Special Mission. Subsequently, the relevant follow-up activities by the United Nations system were under periodic review by the Economic and Social Council.

84. Pursuant to the request contained in resolution 386 (1976), the Secretary-General dispatched a mission, headed by Mr. A. A. Farah, Assistant

Secretary-General for Special Political Questions, to Mozambique with the task of ascertaining the financial, material and technical assistance required by that country to pursue its normal development and to overcome the economic difficulties arising from the application of economic sanctions against Southern Rhodesia. The report of the Mission, dated 30 April 1976, 10/ contains a comprehensive assessment of the estimated needs of Mozambique and indicates, inter alia, that the real cost to that country of applying sanctions against Southern Rhodesia includes not only direct costs and the cost of the emergency projects necessitated by the sanctions, but also heavy recurrent expenditures and a burden on the country's long-term development. The Secretary-General sent several review missions in the following years, the reports of which were annexed to the reports of the Secretary-General to the Economic and Social Council or the General Assembly. These reports provide a breakdown of losses by economic sector, as well as a breakdown and a summary of the international assistance provided by States and international agencies.

85. In the case of sanctions against Iraq, the Security Council Committee established by resolution 661 (1990), in its special report concerning Jordan (S/21786), requested, inter alia, that the Secretary-General undertake expeditiously, in cooperation with the Government of Jordan, a full assessment, with suggestions for appropriate remedies, of the problems resulting from measures undertaken by Jordan to comply with resolution 661 (1990), including especially the question of supply of petroleum and its derivatives. Accordingly, the Secretary-General submitted to the Security Council a report on a mission to Jordan undertaken by his Special Representative, Mr. Jean Ripert (S/21938). That report provided a detailed assessment of the economic impact on Jordan of the embargo against Iraq and the Middle East crisis as a whole, with a breakdown of its external financial losses for 1990 and 1991, including, in particular, the cost of switching to oil at commercial terms from other suppliers. In the light of that assessment, which underscored the gravity of Jordan's situation, the report also called for urgent remedial measures in such critical areas as financial assistance, debt relief, cash infusion, protection of ongoing projects, covering of outstanding evacuee expenses and opening up of alternative export markets, as well as coordination of international efforts to assist Jordan.

86. As regards other States affected by the sanctions against Iraq, assessments of the impact on their economies of the Gulf crisis were carried out by the United Nations development agencies and programmes, in accordance with the relevant decisions of their governing bodies. For example, economic impact estimates were prepared by IMF and the World Bank for the Gulf Crisis Financial Coordination Group and by the United Nations Development Programme within its Special Programme for the Countries Most Affected by the Gulf Crisis, as described in section III C below. The same agencies are currently engaged in assessing the economic impact on individual affected countries of the sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro).

B. Practice and procedures for the consideration of the applications by States under the provisions of Article 50

1. Role of the Security Council

87. In the case of the economic sanctions imposed against Southern Rhodesia, the Council dealt directly with individual requests for consultations submitted by some States allegedly confronted with special economic problems because of their compliance with the sanctions. Thus, the Council dealt with the case of Zambia in its resolutions 253 (1968), 277 (1970), 327 (1973), 328 (1973) and 329 (1973). Also the request for consultations under Article 50 submitted by Mozambique was directly and specifically addressed by the Security Council in resolution 386 (1976). It is noteworthy that the Council did not entrust the Committee established by resolution 253 (1968) with the task of examining requests for consultations under Article 50, but dealt directly with them. In its relevant resolutions, the Council, inter alia, directly considered the report of a mission dispatched by the Secretary-General and requested the other organs of the United Nations, in particular the Economic and Social Council, as well as the programmes and organizations of the United Nations system, to consider the question of assistance to the States in question.

88. In the case of the economic and financial sanctions adopted against Iraq, Security Council resolution 661 (1990) does not contain any reference to Article 50 of the Charter. However, the Security Council began to receive numerous requests for consultation and assistance under that provision soon after the adoption of resolution 661 (1990). At its consultations of the whole, held on 22 August 1990, the members of the Council requested the Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait to consider such requests, in the context of Article 50, and to submit a report, with the Committee's recommendations, as soon as possible. Subsequently, on 24 September 1990, the Security Council adopted resolution 669 (1990), in which it entrusted the Committee with the task of examining requests for assistance under the provision of Article 50 of the Charter and making recommendations to the President of the Security Council for appropriate action. The President of the Security Council, by letters dated 21 December 1990 (S/22033) and 22 March 1991 (S/22398), informed the Secretary-General of the recommendations received from the Chairman of the Committee established by resolution 661 (1990) with regard to a total of 20 States that had requested assistance under Article 50 and requested him to implement the actions contained in the recommendations. A further action taken by the members of the Council on the requests for assistance submitted under Article 50 was the statement made by the President on behalf of the Council at its 2985th meeting, held on 29 April 1991 (S/22548), in response to the memorandum of 22 March 1991 addressed to him by the 21 States that had previously invoked Article 50 of the Charter.

89. Security Council resolutions 713 (1991), 757 (1992), 787 (1992) and 820 (1993), which impose an arms embargo against the territory of the former Socialist Federal Republic of Yugoslavia, as well as a comprehensive set of sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro), contain only one general reference to Article 50 of the Charter. In its resolution 757 (1992), the Security Council included the sixteenth preambular

paragraph recalling the right of States, under Article 50 of the Charter, to consult the Security Council where they find themselves confronted with special economic problems arising from the carrying out of preventive or enforcement measures. However, the Council did not entrust the Committee established pursuant to resolution 724 (1991) with the task of considering requests for consultation or assistance under Article 50. Later on, at its consultations of the whole, held on 13 April 1993, the members of the Council requested the Committee to consider, in the context of Article 50, such requests and to submit a report, with the Committee's recommendations, as soon as possible. On the basis of this mandate, the Committee established a working group that examined requests under Article 50 submitted by a number of States. Subsequently, by its resolution 843 (1993) of 18 June 1993, the Security Council confirmed that the Committee established pursuant to resolution 724 (1991) was entrusted with the task of examining requests for assistance under the provisions of Article 50; welcomed the establishment by the Committee of its working group and invited the Committee, as it completed the examination of each request, to make recommendations to the President of the Security Council for appropriate action. The President of the Security Council, by letters dated 6 July 1993 (S/26056) and 10 August 1993 (S/26282), informed me of the recommendations received from the Chairman of the Committee established pursuant to resolution 724 (1991) with regard to six States that had requested assistance under Article 50 and requested me to implement the actions contained in the recommendations.

90. In the case of the air and military embargo imposed under Chapter VII of the Charter against the Libyan Arab Jamahiriya, the Security Council included in resolution 748 (1992) a preambular paragraph recalling the right of States, under Article 50 of the Charter, to consult with the Security Council. Furthermore, in paragraph 9 (f) of the same resolution, the Council decided to entrust the Committee established by that provision with the task of giving special attention to any communications in accordance with Article 50 of the Charter from any neighbouring or other State with special economic problems that might arise from the carrying out of the measures set out in the resolution. On the basis of the authority conferred upon it by the above-mentioned provision, the Committee established by resolution 748 (1992) considered communications submitted by Bulgaria and the Sudan.

91. The foregoing summary of the practice of the Security Council shows that the question of assistance to States confronted with special economic problems within the terms of Article 50 of the Charter has been addressed by the Council in two manners, either by dealing directly with individual requests by affected States, or by entrusting the organ established to monitor or supervise the implementation of the sanctions with the task of considering those requests and submitting recommendations to the Council. In the latter case, with particular reference to the recommendations of the Committee established by resolution 661 (1990) and of the Committee established pursuant to resolution 724 (1991), the Council has limited itself to transmitting those recommendations to the Secretary-General for appropriate action. It should also be noted that only in the case of the measures against the Libyan Arab Jamahiriya has the Council provided for such mandate in the same resolution imposing the measures in question. The historical trend seems to indicate a preference of the Council for delegating the substantive work to a subsidiary organ rather than undertaking it directly.

2. Terms of reference and working methods of a sanctions committee and its subsidiary body

92. Under Article 29 of the Charter, the Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions. To assist in the monitoring and implementation of economic sanctions, the Security Council has established sanctions committees, with specific terms of reference, either in the same resolution by which it has imposed the sanctions, as in the cases of sanctions against Iraq and the Libyan Arab Jamahiriya, or in a subsequent resolution, as in the case of Somalia, South Africa and the Federal Republic of Yugoslavia (Serbia and Montenegro). In addition, the committees themselves draw up specific guidelines for the conduct of their work and also for the guidance of all States, international organizations both governmental and non-governmental, and individuals. Such guidelines are circulated to all States and international organizations and are also issued as a press release.

93. For the consideration of applications received, or to be received, in connection with the special economic problems confronting States as a result of the implementation of the Security Council mandatory sanctions, the Council has entrusted the relevant sanctions committees with the task of examining requests for assistance under Article 50 and making recommendations to the President of the Council for appropriate action. For this purpose, the committees have each set up a working group under their auspices. The Security Council has provided for such an arrangement in consultations among its members and endorsed it in a subsequent resolution, as in the cases of the sanctions against Iraq and the Federal Republic of Yugoslavia (Serbia and Montenegro). For the execution of its mandate, the Working Group itself draws up specific guidelines and procedures.

3. Substantive support provided by the Secretariat

94. The Committee and the Working Group rely on the administrative experience and expertise of the Secretariat in the conduct of their work. Various departments of the Secretariat and sectoral bodies of the United Nations, such as the Department of Economic and Social Information and Policy Analysis, the Office of Legal Affairs, the Department of Humanitarian Affairs, the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Development Programme and the United Nations Children's Fund (UNICEF), provide substantive support and expert assistance to the Department of Political Affairs, which has the primary responsibility for servicing the Security Council and its subsidiary bodies. The Secretariat has played an important role in putting forth a methodology for identifying the type of losses and costs incurred by the affected countries and, in accordance with the understanding reached by the Working Group, the possible elements of the framework for recommendations with regard to specific requests for assistance under Article 50. In follow-up to these recommendations, the Secretariat has an important function of monitoring the implementation process, on the basis of information provided by States and relevant components of the United Nations system regarding their assistance to the affected countries, and reporting to the intergovernmental bodies, as appropriate.

4. Framework of recommendations regarding specific requests for assistance

95. A framework of recommendations, in the case of both Iraq and, more recently, the Federal Republic of Yugoslavia (Serbia and Montenegro), has been developed by the relevant Working Group on an individual basis, addressing the specific problems of the countries concerned. After consideration, the Committee adopts the recommendations to be submitted to the Security Council. The framework of recommendations consists of a preamble and an operative part. The elements in the preamble make reference to the case of the country concerned, the relevant Security Council resolutions, the applicable provisions of the Charter, the information (written and oral, as appropriate) provided by the applicant country and the concern of the international community with the special economic problems confronting the country in question. The operative part consists of a commendation for action taken by the Government of the country concerned in compliance with relevant Security Council resolutions, recognition of the need to assist the applicant country in coping with its special economic problems, an appeal to all States and competent organs and specialized agencies of the United Nations system, including the international financial institutions, to provide assistance to the country in question, and a request for information from States and relevant organizations on the action taken by them in this regard.

5. Linkages with the General Assembly, the Economic and Social Council and other intergovernmental organs in the economic and social sectors

96. The resolutions of the Security Council that addressed the issue of assistance to Zambia and Mozambique in the framework of the economic embargo imposed against the minority regime in Southern Rhodesia customarily included a request to the United Nations, its bodies and programmes competent in the economic sector, in particular the Economic and Social Council and UNDP, and the specialized agencies, to lend assistance to those States and to consider periodically the question of economic assistance to them. The Secretary-General was specifically requested to organize, in cooperation with the appropriate organizations of the United Nations system, all forms of assistance to the States in question.

97. The Economic and Social Council responded to the requests of the Security Council by keeping the economic needs of Zambia and Mozambique and the assistance extended to them by States and international organizations, under review; reiterating the appeals already made by the Security Council for continued and increased assistance to the two States; and requesting the Secretary-General to consolidate efforts to mobilize assistance, to coordinate such assistance, to consult with potential donors and to report regularly to the Council.

98. The competent programmes, bodies and organizations of the United Nations system, including in particular the international financial institutions, as well as other entities such as regional organizations, responded to the appeals by the United Nations by reviewing their operational activities and strengthening their cooperation programmes with Zambia and Mozambique. A

coordination and review of the activities undertaken by the organizations of the United Nations system took place within ACC.

99. The General Assembly also responded to the appeal launched by the Security Council by including in its agenda items on assistance to Zambia and Mozambique, respectively; the resolutions adopted by the Assembly supported and reiterated the requests for continued and increased assistance to those countries.

100. In the cases of the sanctions against Iraq and the Federal Republic of Yugoslavia (Serbia and Montenegro), all the recommendations approved by the respective Security Council Committees contained an invitation addressed to the competent organs and specialized agencies of the United Nations system, including the international financial institutions and the regional development banks, to review their programmes of assistance with the States affected by special economic problems arising from their implementation of the sanctions. The Secretary-General was requested to seek information on a regular basis from States and concerned international bodies and agencies as to the actions taken by them in this regard. In the case of Iraq, overall review of the assistance provided by the international community at large to the affected countries was carried out by the Security Council itself, while the response of the United Nations system was coordinated within ACC and was also reviewed by the Committee for Programme and Coordination and the Economic and Social Council, as described in section III C below.

101. The Economic and Social Council and the General Assembly have not thus far adopted resolutions dealing specifically with the issue of assistance to States economically affected by the sanctions against Iraq and the Federal Republic of Yugoslavia (Serbia and Montenegro). However, at its second regular session for 1991, the Economic and Social Council held on 12 July 1991 an informal exchange of views, with the participation of the executive heads of the relevant organizations of the United Nations system, on the economic, social and environmental consequences of the situation between Iraq and Kuwait and its short-, medium- and long-term implications. For that purpose, the Economic and Social Council had before it the World Economic Survey 1991 and a note by the Secretariat on the issue (E/1991/102), containing the analysis of the impact of the Gulf crisis. At the conclusion of the discussion, the President of the Council made a statement, 11/ in which he identified several key points indicating, inter alia, that: "(c) ... the effects of the conflict on the economies of certain countries bound by strong commercial ties to the countries of the Gulf region have on occasion been significant: considerable losses have been incurred; ... (j) The international assistance mobilized to help the countries severely affected by the conflict has not followed traditional channels. It has not often been commensurate with the needs of the countries affected; (k) The maintenance of the embargo against Iraq continues to penalize the economies of the countries that used to have substantial economic relations with Iraq ...".

102. At its current, forty-eighth session, the General Assembly decided to add item 169 entitled "Economic assistance to States affected by the implementation of the Security Council resolutions imposing sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro)" on its agenda and to allocate it to the Second Committee, in response to the request submitted by Albania, Bulgaria, Croatia, the Czech Republic, the Republic of Moldova, Romania,

Slovakia, the former Yugoslav Republic of Macedonia and Ukraine (A/48/239). According to its programme of work, the Committee will take up the item beginning 16 November 1993.

C. Mechanisms/instruments for the follow-up of the recommendations by the Security Council

1. Appeals of the Secretary-General

103. As the actions under Article 50 of the Charter originate in the United Nations, in particular the Security Council, the Secretary-General, in his capacity both as the Chief Administrative Officer of the Organization and a Chairman of ACC, has an important role with regard to the follow-up to those actions taken by the Security Council and, at its request, by other intergovernmental organs.

104. In the past, the Secretary-General played an important coordinating and promotional role in parallel with the efforts by Member States and the United Nations system to lend assistance to Zambia and Mozambique. In both cases, the Secretary-General designated a coordinator or coordinating unit both at Headquarters and in the country concerned and dispatched several missions with a view to assessing the development of the economic situation and the extent and the impact of the assistance provided and to evaluate the outstanding needs of the affected countries. The reports periodically submitted by the Secretary-General to the Economic and Social Council or the General Assembly provide comprehensive and sectorial assessments of the economic losses suffered by Zambia and Mozambique in connection with their implementation of the sanctions against Southern Rhodesia, the assistance provided, both by sector and by donor, and recommendations as to the focusing of additional assistance in some critical sectors. Another important role played by the Secretary-General was the convening of consultative and donor meetings at Headquarters, and the pursuance of contacts with groups of donors.

105. Recently, my distinguished predecessor, H.E. Mr. Javier Pérez de Cuéllar, played a catalytic role in mobilizing and coordinating the response of the international community at large and of the United Nations system in particular to a total of 21 countries confronted with special economic problems as a result of sanctions imposed by the Security Council against Iraq. In this context, the Secretary-General appointed a Special Representative to undertake a mission to Jordan to carry out a full assessment, with suggestions for appropriate remedies, of Jordan's unique economic difficulties caused by the Gulf crisis. In the case of Jordan and in each of the other 20 cases, the Secretary-General expressed his strongest possible support for the relevant recommendations of the Security Council and, in his letters addressed to the Foreign Ministers of all States as well as to the executive heads of the international financial institutions and others concerned, launched an appeal for material, financial and technical assistance on behalf of the affected countries. Information provided to the Secretary-General in this regard was reported to the Security Council, at its request. The Secretary-General also brought the issue to the attention of ACC and undertook, within the framework of this assistance, to coordinate the activities of organizations of the United Nations system.

106. Against this background, I have been pursuing, and will continue to pursue, during my tenure as Secretary-General, the efforts aimed at alleviating the special economic problems of States as a result of the implementation of preventive and enforcement measures, with full vigour. I have been doing so, and will continue to do so, in a multifaceted manner (a) by mobilizing international assistance to the affected countries, in response to the requests of the Security Council, in the context of the sanctions imposed against the Federal Republic of Yugoslavia (Serbia and Montenegro) or any other sanctions regime; (b) by coordinating, through ACC, the relevant activities of the United Nations system; and (c) by providing all the necessary leadership and support in follow-up to my "An agenda for peace". Thus, in accordance with the recommendations of the Security Council Committee established pursuant to resolution 724 (1991), I have recently launched appeals to all States and international financial institutions and other relevant components of the United Nations system, urging them to provide immediate assistance to the six affected States; and I have forwarded to the Security Council, without delay, the information provided to me to date, for appropriate action. Moreover, in the annual overview report of ACC for 1992 (E/1993/47/Add.1), I reported on the outcome of my efforts in mobilizing and coordinating assistance to countries having invoked Article 50 of the Charter, in connection with the sanctions against Iraq; and I was requested by the Economic and Social Council to provide updated information in the next overview report of ACC. Furthermore, the present report is intended to contribute to the continuing discussion on and implementation of "An agenda for peace".

2. Assistance provided by States

107. In response to the appeals launched by the Secretary-General pursuant to the recommendations formulated by the Security Council with regard to 21 States having invoked Article 50, in connection with the sanctions against Iraq, a number of donor or creditor countries submitted specific information on the assistance provided by them to various countries affected by the Gulf crisis. Such information was received from the following States (in alphabetical order): Australia, Austria, Canada (S/22713), Belgium (S/22537), Denmark (S/22538), France, Germany, Greece, Ireland, Italy, Japan (S/22368), Liechtenstein, Luxembourg (S/22541), Luxembourg on behalf of the European Community and its 12 member States (S/22542), Netherlands (S/22553), New Zealand (S/22296), Norway, Portugal, Republic of Korea, Saudi Arabia (S/23058), Spain (S/22539), Sweden (S/22586), Switzerland, United Kingdom, United States and former USSR. While some of these replies were issued, at the request of the countries concerned, as documents of the Security Council, others were also made available to the Council.

108. In their replies, the aforementioned States recognized with deep concern serious economic difficulties faced by many countries as a result of the Gulf crisis, including the special economic problems arising from the implementation of Security Council resolution 661 (1990). Accordingly, the data submitted by them to the Secretary-General regarding their economic, financial, technical and humanitarian assistance was not confined to the countries having invoked Article 50 of the Charter. The bulk of that assistance, through both multilateral and bilateral channels, was provided to the so-called front-line States, Egypt, Jordan and Turkey.

109. In this connection, several countries (e.g. Canada, Japan, members States of the European Community and United States) referred to their participation in and contributions to the Gulf Crisis Financial Coordination Group established in September 1990 by major donors and creditors to mobilize and channel financial assistance for those most seriously affected countries. In 1990-1991, the Group committed a total of $15.7 billion, mainly to three countries (Egypt, Jordan and Turkey), of which approximately $8.3 billion was disbursed, primarily as balance-of-payments grants and highly concessional loans, in-kind assistance and project loans. Jordan accounted for about $1.3 billion during 1990-1992, with the bulk of the balance-of-payments support materializing in 1991 ($726 million). In 1992, Jordan also received debt relief worth $1.2 billion from the Paris Club and other creditors; and the second tranche of the World Bank's trade and industry loan worth $150 million was materialized (including co-financing from Japan of $75 million).

110. As regards multilateral financial assistance to other affected States, several donor countries expressed their strong support for the decisions of the World Bank to expand its lending, and of IMF to adapt its facilities, in order to satisfy additional financial needs of those States. In addition, they reported specific measures of bilateral assistance such as debt relief, untied emergency commodity loans on highly concessional terms, project and development assistance loans as well as food aid. Moreover, USSR provided additional oil delivery to India and Bulgaria as compensation for embargoed Iraqi oil.

111. Finally, many donors highlighted their humanitarian assistance, particularly assistance to displaced persons and refugees, including repatriation of migrant workers to their countries of origin. In addition to bilateral efforts, humanitarian assistance was largely channelled and coordinated through the International Committee of the Red Cross (ICRC), the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), UNICEF, the International Organization for Migration and non-governmental organizations (NGOs).

112. In response to my letters of 21 July and 13 September 1993 regarding assistance to six States, in accordance with the recommendations of the Security Council Committee established pursuant to resolution 724 (1991) concerning Yugoslavia, I have received, as of this date, replies from 11 States: Antigua and Barbuda, Belgium, Denmark, Ecuador, Hungary, Liechtenstein, Netherlands, Malawi, Nigeria, Turkey and United Kingdom. The texts of those replies were forwarded, without delay, to the Security Council and subsequently to its competent subsidiary bodies, for consideration. Owing to the limited number of the replies received, it is not possible, at this point, to present anything like a comprehensive summary of the actions taken by the international community on behalf of those affected States. However, a few substantive points contained in the replies from Member States are worth mentioning.

113. All States that replied to the above-mentioned letters recognize the special economic difficulties of countries adversely affected by the sanctions imposed on the Federal Republic of Yugoslavia (Serbia and Montenegro) and support the relevant recommendations of the Security Council. Several States (Belgium, Denmark, Liechtenstein, the Netherlands, Turkey and tne United Kingdom) provided specific information on or indicated the areas of their assistance, at the bilateral and/or multilateral levels, to the affected

countries. In particular, the critical role of the international financial institutions and the regional economic arrangements, especially in support of the transition economies of Eastern Europe, was highlighted in several communications. Some States (Ecuador, Hungary and Turkey) outlined the negative effects of the sanctions for their economies and suggested remedial measures. The developing countries (Antigua and Barbuda, Ecuador, Malawi and Nigeria) indicated that, owing to their economic conditions, they were not in a position to provide assistance, although they might do it in the future, if circumstances permitted.

3. Response of the United Nations system

114. The recent relevant response of the United Nations system, for which detailed information is available, relates to the case of sanctions against Iraq. Pursuant to the recommendation contained in paragraph 161 of the report of the Committee for Programme and Coordination (CPC) on the first part of its thirty-second session, 12/ I addressed a letter dated 8 September 1992 to the relevant organs, organizations and bodies of the United Nations system, including the international financial institutions and the regional development banks. By that letter, I requested all those components of the United Nations system to provide me with updated information on the measures undertaken and progress achieved by them, in 1991-1992, regarding assistance to the 21 countries that have invoked Article 50 of the Charter, in order to alleviate the special economic problems arising from their carrying out of Security Council resolution 661 (1990) imposing economic sanctions against Iraq and the then occupied Kuwait. The requested information was intended as an input to the ACC annual overview report for 1992.

115. A total of 27 replies were received in response to my letter of 8 September 1992. These included responses from the following specialized agencies: International Labour Organization (ILO), Food and Agriculture Organization of the United Nations (FAO), United Nations Educational, Scientific and Cultural Organization (UNESCO), World Health Organization (WHO), World Bank, IMF, International Fund for Agricultural Development (IFAD), United Nations Industrial Development Organization (UNIDO), as well as General Agreement on Tariffs and Trade (GATT). As regards the United Nations sectoral entities involved, nine of them, namely, UNDP, the United Nations Environment Programme (UNEP), the United Nations Population Fund (UNFPA), the UNRWA, the United Nations Centre for Human Settlements (UNCHS), UNHCR and the World Food Programme (WFP), as well as the United Nations Office at Vienna and the then Department of Economic and Social Development, responded. In addition, information was provided by four United Nations regional commissions - the Economic Commission for Africa (ECA), the Economic Commission for Europe (ECE), the Economic Commission for Latin America and the Caribbean (ECLAC) and the Economic and Social Commission for Asia and the Pacific (ESCAP); as well as by five regional development banks: the African Development Bank (AfDB), Asian Development Bank (AsDB), European Bank for Reconstruction and Development (EBRD), Inter-American Development Bank (IDB) and Islamic Development Bank.

116. On the whole, the replies received from the relevant agencies, organizations and bodies of the United Nations system indicate that all of them share the concern about the special economic problems of the 21 affected

countries having invoked Article 50 of the Charter and have taken due note of the recommendations of the Security Council Committee established by resolution 661 (1990), as well as the follow-up appeals for assistance. Accordingly, most of them have intensified their assistance activities with regard to the countries concerned, while acting within their respective mandates, programmes of work and, most importantly, available financial resources. In addition to their existing assistance activities and technical cooperation programmes for the countries in question, many specialized agencies (ILO, FAO, World Bank, IMF, UNESCO and WHO) and sectoral development programmes (UNDP, UNEP, UNFPA, UNRWA and WFP) undertook emergency measures and launched special assistance projects with a view to mitigating the immediate hardships encountered and urgent needs faced by those affected countries. In terms of direct financial assistance, a prominent role was played by the World Bank and IMF, as well as the regional development banks. Although most of the emergency assistance operations have been completed, the ongoing activities continue to take account of the special economic problems of those affected countries. Furthermore, several agencies, in particular FAO, UNESCO, IFAD and UNIDO, have expressed their willingness to identify and implement additional assistance projects, within their competence and to the extent resources permit, with a view to further alleviating the impact of the Gulf crisis and redressing its longer-term consequences.

117. However, in the absence of adequate arrangements, mechanisms and procedures for the implementation of the provisions of Article 50 of the Charter, it has not been possible in all cases to separate distinctly and estimate fully the assistance provided thus far by the individual agencies and programmes involved, in compensation for the actual losses and costs incurred by those affected countries. Nor has it been possible to aggregate the data and assess the effectiveness of the collective response of the United Nations system to the appeals launched pursuant to the Security Council recommendations regarding the countries concerned. This underscores the importance of establishing, in the context of Article 50, an appropriate and effective coordination arrangement, on a system-wide basis, to assist in the mobilization of resources and coordination of activities in support of the affected countries. In illustration, a summary of the reported information on the activities of the international financial institutions as well as UNDP is given below.

World Bank

118. The World Bank took a number of prompt actions to launch an assistance programme to help developing countries, both inside and outside the Middle East region, whose near-term economic prospects were put in jeopardy by the Gulf crisis. These included: (a) preparation, where needed, of emergency-assistance operations to help countries to resettle and integrate returning workers and improve infrastructure and social services; (b) plans to increase cost-sharing limits to enable the Bank to finance a higher proportion of costs of ongoing and new projects; (c) plans to accelerate disbursements, advance lending operations, supplement ongoing operations and increase lending for structural and sectoral adjustment; (d) provision of policy advice on how countries could further adjust their economies to cope with the crisis and sustain their poverty-reduction efforts; and (e) use of existing mechanisms such as consultative groups and the Special Programme of Assistance to Africa, to help to mobilize and coordinate support for affected countries.

119. Accordingly, the Gulf assistance programme, set out by the World Bank in November 1990, led to an increase in fiscal year 1991 in International Development Association (IDA) lending of special drawing rights (SDR) 314 million over the previously planned IDA commitments. In addition, SDR 200 million was transferred to IDA from the Bank's fiscal 1990 net income, together with an increase by Kuwait in its contribution to IDA-9 to $50 million. IDA was thus provided with sufficient additional commitment authority to meet initially its full operational programme in those developing countries affected by the crisis. On the International Bank for Reconstruction and Development (IBRD) side, additional lending of $1 billion during fiscal year 1991 was committed. A substantial part of the programme was in the form of investment operations and additions to adjustment programmes in a number of countries. The Bank played an active role in helping to design appropriate policy responses, in supplying technical assistance and working closely with other multilateral institutions to coordinate financial resources to meet the longer-term needs of affected countries. Thus, in fiscal year 1992, the total lending by the World Bank for 11 countries concerned (Bangladesh, former Czechoslovakia, India, Mauritania, Pakistan, Philippines, Poland, Romania, Sri Lanka, Sudan and Yemen) amounted to $4,646.4 million, comprising $3,028.3 million in IBRD loans and $1,618.1 million in IDA credits. This assistance covered the financing of 35 country projects spread over 10 sectors of the Bank's activities, as well as adjustment lending and technical cooperation.

International Monetary Fund

120. IMF also took prompt action to adapt and expand its existing facilities and policies to provide financial support to its member countries affected by the Gulf crisis. In this context, the Fund's response adopted by its Board in November-December 1990, included the following special measures: (a) the amount of financing available to members under stand-by and extended arrangements could be modified or rephased, as appropriate, to take into account the effects on oil prices and tourism receipts of developments in the Middle East; (b) the lower annual, three-year, and cumulative borrowing limits under the enlarged access policy were suspended until the end of 1991; (c) financing available to countries under the enhanced structural adjustment facility (ESAF) could be augmented at the time of the mid-term reviews as well as approval of such arrangements; (d) a fourth year of ESAF support would be permitted before November 1992; (e) a temporary oil import element was introduced and continued through June 1992, into the compensatory and contingency financing facility (CCFF) to compensate for sharp, unexpected increases in oil and natural gas import costs incurred prior to the end of 1991; (f) the coverage of compensatory financing under CCFF was expanded to include losses resulting from shortfalls in receipts from pipelines, canals, shipping, transportation, construction and insurance; and (g) an external contingency mechanism could be attached to stand-by and extended arrangements at the time of a review, provided at least six months remained before the expiration of the underlying arrangement.

121. As the Fund provides general balance-of-payments support, it is not possible to identify separately the assistance amounts falling strictly under the provisions of Article 50. Thus, from the outbreak of the Gulf crisis until the end of financial year 1991, eight countries concerned (Bangladesh, Bulgaria, former Czechoslovakia, India, Philippines, Poland, Romania and Uruguay) received from the Fund total financial commitments of SDR 3.7 billion in support of their

adjustment efforts, while cumulative disbursements drawn by these countries amounted to SDR 2.8 billion. In particular, drawings for a total of SDR 1.9 billion were approved under CCFF with the extended coverage and the temporary oil import element for six affected countries of this group (Bulgaria, Czechoslovakia, India, Philippines, Poland and Romania) and three others; and the external contingency mechanism was included in new arrangements with five of them (Bulgaria, Czechoslovakia, Hungary, Philippines and Romania). In addition, the Fund arranged and financed 18 technical assistance visits to 7 recipient countries of this group.

122. During financial year 1992, the Fund approved new stand-by arrangements with four countries in question (Bulgaria, the former Czechoslovakia, India and Jordan), which involved total commitments of SDR 2,091.4 million; and new ESAF arrangements with Sri Lanka (SDR 336 million), along with the second annual ESAF arrangement with Bangladesh (with an increase of SDR 86.3 million) and the third annual structural adjustment facility (SAF) arrangement with Pakistan (SDR 109.3 million). Particularly relevant and important were the purchases amounting to SDR 944 million made by Czechoslovakia, India and Pakistan under the oil and export shortfall elements of CCFF. Later in calendar year 1992, the Fund approved new stand-by arrangements with Romania (SDR 314 million) and Uruguay (SDR 50 million) and new ESAF arrangements with Mauritania (SDR 16.95 million). In addition, the Fund provided technical assistance to several countries concerned; and most recently it renewed its technical cooperation with the Sudan and Yemen.

Regional development banks

123. On the regional level, financial and technical assistance to the affected countries was also provided by the regional development banks. Thus, the AfDB provided in 1991-1992 a total of $818 million in grants and soft loans to five affected countries of the region (Djibouti, Mauritania, Seychelles, Sudan and Tunisia) and financed rapid disbursement programmes amounting to $191 million for three of them (Mauritania, Sudan and Tunisia). The response of AsDB comprised the financing of key production inputs (diesel oil and fertilizer) in its five member countries (Bangladesh, India, Nepal, Pakistan and Sri Lanka) under a total outlay of $284.5 million, with a view to enabling rapid disbursement of assistance required for recovery and renewed growth. Since 15 April 1991 when it became operational, EBRD approved lending to four countries (Bulgaria, Czechoslovakia, Poland and Romania) in a total amount of European currency units (ECU) 702.1 million; and engaged in technical cooperation programmes in these countries. The IDB assistance programme for Uruguay in 1991-1992 involved $424 million in lending, with an additional $13.2 million in related technical assistance. Within its operational framework, the Islamic Development Bank extended assistance amounting to approximately $773 million spread over 11 affected member countries, including Bangladesh, Jordan, Pakistan and the Sudan.

United Nations Development Programme

124. UNDP established, in February 1991, the Gulf Task Force and allocated up to $4 million from its Special Programme Resources (SPR) to assist countries affected by the Gulf crisis. The Task Force developed the Special Programme for the Countries Most Affected by the Gulf Crisis, which provided a framework for

financial and administrative management of the funds made available for this purpose. The Special Programme was to fund activities in the following five major areas of need: immediate humanitarian needs; human development and returnees; rehabilitation of institutions and infrastructure; management of the economic impact of the crisis; and environmental recovery. By June 1991, the funds were disbursed, allocated or earmarked for several assistance projects covering virtually all the affected countries and all the five priority areas. Thus, the Umbrella Project for the Gulf Crisis (RAB/91/006), with a final budget of some $700,000, applied to all affected countries in the Arab region, Asia, Africa and Europe and covered the costs of consultants, missions, training in disaster management and research activities in all five areas established under the Special Programme. Assistance in the strengthening of government labour and migration policies, and reintegration of returnees was also provided under two regional projects executed by ILO: Regional Arab migration (RAB/91/008) with $150,000 allocated in support of Egypt, Jordan, Yemen, the Sudan and Lebanon; and Regional Asian migration (RAS/88/029) with $350,000 added for Bangladesh, India, Pakistan, the Philippines, Sri Lanka and Viet Nam. In addition, individual country projects, mainly for impact assessment, were carried out in Bulgaria, Djibouti, Jordan, Lebanon, Mauritania, the Philippines, Poland, Romania, the Sudan, Viet Nam and Yemen. Further, in December 1991, UNDP convened a meeting of the international community to discuss a funding strategy on the basis of "Proposals for the socio-economic and environmental recovery of countries affected by the impact of the Gulf crisis of 1990-1991" (DP/1992/4). While the initiative was welcomed, it became clear that additional funding would not be forthcoming. Consequently, it was decided that the UNDP Gulf Task Force would no longer function after February 1992, and that assistance would be extended bilaterally as well as through the relevant UNDP units or other international bodies concerned.

125. In the case of sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro), a total of 16 replies have been received to date, in response to my letters of 21 July and 13 September 1993 requesting information from the competent bodies and agencies of the United Nations system regarding their activities in support of the six affected countries having invoked Article 50 of the Charter. These include responses from such specialized agencies as ILO, FAO and the International Maritime Organization (IMO), as well as GATT; and a number of the United Nations sectoral bodies involved, namely: UNICEF, United Nations Conference on Trade and Development (UNCTAD), UNDP, UNEP/UNCHS, UNFPA and WFP. These also include replies from three United Nations regional commissions (ECA, ECE and the Economic and Social Commission for Western Asia (ESCWA), as well as AfDB, AsDB and IDB. Copies of all these replies, along with the information provided by States, were made available to the members of the Security Council. However, owing to the fact that the international financial institutions, such as IMF, the World Bank and EBRD, have not yet responded and that the replies from other agencies and bodies are largely of a general or preliminary nature, it is not feasible, for the time being, to attempt any comprehensive report on the matter. I will do it in due course when the necessary information is made available to me.

4. Role of the Administrative Committee on Coordination and other coordination issues

126. ACC has been seized with the issue of assistance to countries having invoked Article 50 in connection with special economic problems arising from the implementation of sanctions imposed under Chapter VII of the Charter since 1991.

127. At its first regular session for 1991, held in Paris from 17 to 19 April, ACC took up the matter in the context of a broader agenda item on the economic and social impact of the Gulf conflict and its implications for international cooperation. As background documentation, an analytical paper on the issue (ACC/1991/CRP.3/Rev.1) and an information document "Activities of the United Nations system in addressing the economic and social impact of the Persian Gulf war" (ACC/1991/OC/CRP.9 and Add.1 and 2) were provided. While no specific reference was made in the annual overview report of ACC for 1991 to the agencies' action in respect of Article 50, the Secretary-General reported to the Security Council, at informal consultations held on 26 April 1991, that ACC had discussed the matter and its members agreed vigorously to pursue their efforts to respond effectively to the needs of the affected countries and keep him informed of their activities. The Secretary-General undertook to coordinate through ACC, within the framework of this assistance, the activities of organizations of the United Nations system.

128. Subsequently, the Economic and Social Council, at its substantive session for 1992, took note of the report of CPC on the first part of its thirty-second session held in May 1992, and endorsed the conclusions and recommendations contained therein. 12/ In paragraph 161 of its report, the Committee took note of the continuing efforts of the Secretary-General, including those in his capacity as Chairman of ACC, to coordinate assistance to countries which have invoked Article 50 of the Charter, and requested ACC to incorporate in the next annual overview report relevant information, including that provided by the Secretary-General on measures undertaken and progress achieved by agencies in this regard.

129. Pursuant to that request, I addressed a letter dated 8 September 1992 to all relevant components of the United Nations system, requesting updated information on the measures taken and progress achieved by them, in 1991-1992, on behalf of the 21 affected countries, as an input to the annual overview report of ACC for 1992. The main substantive features of the replies received were outlined in an information paper on "Assistance to countries most affected by sanctions concerning Iraq, in the context of Article 50 of the Charter of the United Nations", which was submitted to the meeting of the ACC Organizational Committee, held in New York from 8 to 12 February 1993. The same information is reflected in part in the foregoing section of this report. An analytical summary thereof was included in the addendum to the annual overview report of the ACC for 1992. 13/

130. In paragraph 45 of its report on the first part of its thirty-third session held in New York from 10 to 14 May 1993, 14/ CPC "noted with appreciation the efforts of the Secretary-General, including in his capacity as Chairman of ACC, in mobilizing and coordinating assistance to countries invoking Article 50 of the Charter and requested him to continue those efforts and report on the outcome thereof in the next overview report of ACC". Subsequently, the same

request was reiterated to me by the Economic and Social Council, in its decision 1993/313 adopted on 29 July 1993. 15/ It is understood that the new case in point is the response of the United Nations system to the special economic problems of countries adversely affected by the sanctions imposed on the Federal Republic of Yugoslavia (Serbia and Montenegro).

IV. MAIN FEATURES OF THE REPLIES RECEIVED BY THE SECRETARY-GENERAL

131. Pursuant to the note by the President of the Security Council (S/25036), I requested the relevant views and proposals of Member States under cover of a note verbale dated 12 April 1993 and addressed the heads of international financial institutions and other relevant components of the United Nations system in a letter dated 14 April 1993. Consultations with the relevant organizations of the system have also been held in the context of ACC.

132. Replies to the note verbale have been received from 13 Member States: Brazil, Cameroon, Cuba, Egypt (A/47/952-S/25839), France, India, Nepal, Nigeria, Romania, Russian Federation, Ukraine (A/47/962-S/25910), United Kingdom and Uruguay (A/47/947-S/25763). Letters are in from specialized and other agencies (FAO, GATT, IFAD, IMF, IMO, UNIDO, WHO and World Bank), United Nations programmes and bodies (UNCTAD, UNDP, UNEP, UNFPA and UNHCR), the regional commissions (ECA, ECE, ESCWA and ECLAC) and regional development banks (EBRD and AsDB). A summary of those replies is set out below.

A. Summary of replies from Member States

133. Among the Member States that have replied, there is broad consensus as to the urgent need to put into place a workable mechanism to meet the purpose of Article 50 of the Charter effectively and systematically. Different views were expressed with respect to the character and modalities of such a mechanism.

134. Some Member States have expressed the view that Article 50 argues for the assignment to the Security Council of the central responsibility for devising suitable measures that can address the special economic problems and insulate the States affected by these difficulties. Article 29 of the Charter was cited in presenting the case for the establishment of either an ad hoc or a standing committee to perform two basic functions: (a) to consult before the imposition of sanctions with countries susceptible to suffer damages, with the objective of identifying the most appropriate forms of sanctions while not placing limitations on the principle of sanctions itself; and (b) to consult with countries that have sustained damage after the imposition of sanctions in order to help to direct assistance to claimant countries in terms of the proportionate and equitable distribution of any resources that become available for that purpose.

135. The need to elaborate a methodology for assessing the losses of the affected States was stressed. This task, which might fall within the purview of the proposed committee, could be facilitated through the contributions of the financial institutions and other components of the United Nations system, which are in the position to carry out assessments of the special economic problems.

It has also been suggested that the proposed committee could cooperate with the organs and bodies of the United Nations system in coordinating and implementing a range of technical assistance and humanitarian programmes to benefit the affected States.

136. Other Member States, while recognizing that States confronted with special economic problems have the right, pursuant to Article 50, to consult the Security Council with regard to a solution of those problems, wonder whether, from a practical point of view, the Security Council is the most appropriate organ to carry out the measures and undertake the necessary coordination that would be needed in order to render the required assistance. It is argued that Article 12 of the Charter opens the way for the Security Council to request the General Assembly to formulate recommendations on subjects under its consideration. According to this point of view, given the specificity of the action of the Security Council and the fact that the General Assembly deals with questions related to the special needs of affected States, it has been suggested that it might be most productive if the General Assembly directly examined the questions and prepared the necessary recommendations to the Security Council.

137. A number of Member States have proposed the establishment of a fund in order to secure the financial resources required to meet the claims of countries that have sustained damage. Some have suggested that the fund should be sustained by assessed contributions on the basis of the scale of assessments for peace-keeping operations as an outcome of activities mandated by the Security Council. At the same time, countries should be encouraged to make voluntary contributions to the fund as their participation in meeting the responsibilities of the collective security system. Several Member States considered that, by using resources made available from the restructuring of the Secretariat and by tapping into existing reserves in the regular budget and other sources, there would be no need for new contributions from Member States. It has also been suggested that direct financial assistance through multilateral, including regional, or bilateral arrangements could be part of such a mechanism.

138. The fund would serve to compensate for damages suffered as a result, inter alia, of trade disruption, fall in remittances, repatriation costs and escalation of prices of energy supplies and other commodities. It would cover adverse effects on national economies at both the macro and the micro levels, including government losses as well as claims by private companies and individuals. It would also cover payments in the pipeline, including deferred payments, which would be released promptly to the affected States. All Member States would be eligible for coverage under the fund without exception and on a non-discriminatory basis.

139. The involvement of the international financial institutions and other organs of the United Nations system would be required, not only to command adequate levels of financial resources and to ensure the necessary expertise in dealing with trade and financial matters, but also to ensure a coordinated system-wide approach. It has been suggested that the possibility be explored of creating special windows of credit and that commercial and economic losses resulting from the enforcement of sanctions be included among the factors that determine preferential access by States to existing lines of credit or facilities.

140. There is another viewpoint shared by several countries, that introduces a note of caution. According to this approach, it is necessary to ensure that the Security Council maintain its freedom of action in considering the adoption of preventive or enforcement measures as an alternative to the use of force. The Security Council could thus become paralysed if, before adopting such measures, it would need to ensure the availability of resources to compensate, if required, the consequences of its decision. Strict compliance with the measures adopted by the Security Council under Article 41 of the Charter is an obligation of all Member States. Where States find themselves confronted with special economic problems that arise from the carrying out of such measures, Article 50 of the Charter gives them the right to consult the Security Council with regard to a solution to those problems; but there is no right to compensation for the fulfilment of international obligations under the Charter. What is needed, according to this point of view, is a sympathetic hearing and an appropriate response to particular difficulties of the affected countries, on a case-by-case basis, rather than an attempt to mitigate all the possible consequences of measures taken by the Security Council.

141. It is further argued that the United Nations has a valuable role to play, i.e. as a facilitator, in contacting other bodies that are better qualified and equipped to respond directly to such problems. The international financial institutions such as IMF and the World Bank and regional development banks are regarded well-placed to advise and assist the affected States. This could include reprogramming of their funding to allow existing loans or credits to be channelled towards projects designed specifically to address the constraints resulting from the special economic problems of such States. As regards other relevant bodies, including national Governments and NGOs, it is recognized that they can also assist in various ways. For example, Governments can introduce a temporary change in import regimes. According to this approach, an Article 50 trust fund would not be an appropriate means to address the scale of the problem and would risk duplicating the ongoing work of the international financial institutions.

B. Summary of replies from specialized agencies, international financial institutions and regional development banks

142. In his letter of 4 June 1993, the Managing Director of IMF wrote that he is "fully sympathetic with the desire to help countries that have been adversely affected by the spillover effects of sanctions under Chapter VII of the Charter". In such circumstances, the Fund can provide help through its policy advice, including a full assessment of the State's external situation, aimed at ensuring that the mix of adjustment policies and external financing adopted are consistent with the country's medium-term objectives. The Fund can also assist, as it has done in the past, through efforts to mobilize financial assistance in the context of consultative groups; the Fund staff can play an important technical assistance role for these or other groups. The Fund also stands ready to provide financial assistance under its existing facilities to any member experiencing balance-of-payments difficulties, including those related to the spillover effects of sanctions, in support of appropriate economic policies aimed at resolving the member's balance-of-payments difficulties.

143. The President of the World Bank, in his letter dated 29 April 1993, expressed the view that experience gained so far did not indicate the need for any new measures or instruments to ensure an effective Bank reaction to crisis situations. The assistance measures currently available to Bank members have provided adequate flexibility for prompt actions to be taken to help to meet the most immediate needs of affected countries. These measures encompassed the following main areas: (a) assistance in designing appropriate policy responses; (b) accelerated disbursements from existing loans and credits; (c) use of coordination mechanisms such as consultative groups to mobilize and coordinate support for affected States; (d) increased cost-sharing limits to enable the Bank to finance a higher proportion of costs of ongoing and new projects; and (e) expanded IBRD or IDA lending.

144. The replies received to date from other international financial institutions, namely, ASDB and EBRD, reflect that their respective charter and founding agreements do not open the way at present for direct action in insulating States from the special economic problems arising from the imposition of sanctions.

145. The specialized agencies, with mandates in various technical areas, responded that they stood ready to contribute their expertise, most particularly in the area of assessment. In addition, it has been suggested that, for countries in need of assistance, a comprehensive programme could be prepared aiming at alleviating the effects of the sanctions with a focus on the most vulnerable groups. Such a programme would assess the options for funding and, if necessary, include a consolidated appeal for assistance from the donor community. It could be used by the States concerned when consulting the Security Council regarding the impact of sanctions on the economy and on the populations. With respect to the mobilization of the funds necessary for the preparation and implementation of the comprehensive programme, it has been suggested that the Security Council consider the following options: (a) withholding aid to the State subjected to sanctions and redistributing it to States confronted with special economic problems; (b) in the case of claims related to the loss of remittances and the cost of resettlement of returnee workers, the consideration of special appeals for humanitarian assistance from existing donor sources; and (c) while funds from sources listed under option (a) above could be used to provide compensation to States and/or to their enterprises that lose export markets or have to pay more for their imports, short-term relief could be provided through existing mechanisms such as loans, grants or trade credits.

C. Summary of replies from other relevant components of the United Nations system

146. The various components and programmes of the United Nations have expressed a number of views, observations and suggestions with regard to practical measures that they may contribute. It has been noted that there is a need to define special trade provisions for States affected by sanctions imposed on another State. These provisions could be a subject of consultations with GATT if the countries concerned are Contracting Parties. Article XXI (c) of GATT states that "nothing in this Agreement shall be construed ... to prevent any Contracting Party from taking any action in pursuance of its obligations under

the United Nations Charter for maintenance of international peace and security". Thus, the special provisions could allow for: (a) quick unilateral procedures by the affected State to apply trade restrictions so as to safeguard the balance of payments (art. XII of GATT); (b) special trade preferences to be granted to affected countries on a temporary basis by other Members of the United Nations, such as suspension of custom tariffs and non-tariff measures on their export products, to help to increase export earnings; and (c) special measures in the form of concessional credits and financial aid to offset critical shortages in the supply of basic goods and commodities. For the measures listed under (a) and (b) above, a special decision would need to be taken by the GATT Contracting Parties.

147. Since not all potential preference-giving and preference-receiving countries are GATT Contracting Parties, it would be advisable that the whole process of consultations and decision-making involving special trade measures as well as other economic actions in favour of affected countries be concentrated within the United Nations, which could make the appropriate recommendations to other organizations of the United Nations system. GATT would provide for a permanent legal decision-making framework (involving a waiver from its rules and disciplines) for this process.

148. Other programmes - such as UNDP, UNEP and UNFPA - have expressed their readiness to help in carrying out necessary assessments and in designing a coordinated response. UNHCR underscores the need to continue to protect as well, through humanitarian activities, the most vulnerable segments of the population of the State to which sanctions are being applied.

149. The regional commissions have likewise indicated their willingness to assist as well in the carrying out of assessments and provision of technical assistance. ECLAC has further proposed that a contingency plan be designed for each region in which the Secretary-General would designate a lead institution to coordinate the assistance to be given by all international institutions concerned.

V. CONCLUSIONS, OBSERVATIONS AND RECOMMENDATIONS

150. The historical survey of cases in which the Security Council has taken steps to address the questions of special economic problems of States as a result of sanctions imposed under Chapter VII of the Charter indicates that the Council practice has varied considerably over the years and its response has been characterized by a flexible and, in the main, case-by-case approach. Given the differences in the situations in which the Council is required to take action, it would seem advisable that a certain flexibility should be preserved by the Council to enable it to respond to a given situation in the most appropriate manner. For example, the Council will clearly need to take into account the number of countries that experience special economic problems as a result of sanctions as well as the magnitude and complexity of such problems in devising an appropriate response.

151. The survey also confirms the observation I have made on several occasions that measures to ease the economic impact of sanctions have so far depended on the political will of countries that are in a position to provide assistance or

on the capacity of the financial and other organizations of the United Nations system to respond adequately and swiftly. At present, there is no mechanism in the United Nations to address the spirit of Article 50 of the Charter effectively and systematically.

152. Experience gained over the years from the application of Article 50, and in particular the recent case relating to the mandatory sanctions against Iraq, point to a number of gaps and constraints that suggest the need for such a mechanism. These include:

(a) Appeals launched by the Secretary-General for assistance to the affected States, pursuant to the relevant decisions of the Security Council, do not necessarily evoke a full and effective response, in part, for lack of an appropriate mechanism for consultations with the donor countries, the financial institutions and other components of the United Nations system and their involvement in the assessment of problems and needs. The process of assessment of problems and needs has also varied a great deal from case to case, resulting in only general exhortations to the donor community;

(b) There has been little research and analysis of the nature of the special economic problems that may arise as a result of the implementation of the preventive and enforcement measures imposed by the Security Council. Even in the case of sanctions against Iraq, the analysis was done on an ad hoc basis and did not, in all cases, cover the magnitude and the complexity of the ensuing problems in a comprehensive manner;

(c) While several donor countries as well as the international financial institutions and other relevant components of the United Nations system have, in the past, provided to the Secretary-General specific information on their assistance furnished to the affected States, it has not been possible to identify distinctly and estimate how much of that assistance was specifically and directly intended to address the special economic problems arising from the carrying out of the measures imposed by the Security Council. For this reason, the effectiveness of the international response to those problems remains unclear;

(d) Given the limitations of existing mandates and available resources, it appears that in many cases the assistance provided by the donor community as well as the international financial institutions and the relevant components of the United Nations system has been part of the ongoing assistance programmes and has not always involved additionality of funds to address specifically and directly the particular problems arising from the implementation of the measures imposed by the Security Council. In such instances, this outcome has been disappointing for the affected countries, especially against the background of commitments and projected assistance by some donors and agencies in their efforts in the context of Article 50.

153. While preserving the overall framework of a flexible and case-by-case approach, it should be possible to identify a number of measures that could be taken to improve the international response to the economic impact of sanctions.

154. A first step in establishing more orderly and systemic arrangements would be for the Security Council to consider the possibility of addressing the issue

of requests for assistance under Article 50 of the Charter immediately and on a general basis in the resolution or resolutions establishing preventive or enforcement measures under Chapter VII of the Charter, in order to provide at the outset a clear legal basis for the treatment of such requests. This could be achieved by providing the subsidiary organ customarily established in connection with the adoption of mandatory sanctions with a wide mandate to consider such requests and transmit its observations and recommendations to the President of the Security Council. The possibility could also be considered of entrusting this task to ad hoc committees established by the resolutions imposing mandatory sanctions for the sole purpose of considering requests under Article 50. The latter solution might in some cases decrease the workload of the "sanctions committees".

155. In addition, the Security Council might, when considering the imposition of enforcement measures, request the Secretariat to prepare background material on the economies of the neighbouring States or of States that have particular economic links with the target State, as well as some prospective analysis on the predictable effects of the intended measures at the macroeconomic level. This would of course be without prejudice to the authority of the Council to impose the measures it deems appropriate, and the studies might remain confidential. Also, there is a need to develop a common methodology, to be used by States in preparing the data to annex to their applications as well as by the United Nations system in assessing the requests for consultations and considering the provision of assistance. It is evident that the methodology should be elaborated and used on a system-wide basis; to this end, the issue could be studied and proposals developed by an appropriate subsidiary body of ACC. UNDP could provide assistance to States in getting acquainted with the methodology and in preparing their figures.

156. Since actions under Article 50 originate in the United Nations, in particular the Security Council, it would seem appropriate that a leadership role be entrusted to the Secretary-General, both in his own capacity and as Chairman of ACC in the follow-up to the decisions taken by the Security Council. Where a large number of requests for assistance are received involving diverse and complex specific country situations, the Secretary-General would, after appropriate consultations with the financial institutions and other relevant components of the United Nations system, issue a consolidated appeal. He would also establish, when appropriate, a consultative group composed of financial institutions, other relevant components of the system and potential donor countries to follow up on his appeal and monitor the assistance provided to affected countries.

157. It is clear that an effective system of implementation of Article 50 by the United Nations system cannot function without an active involvement of the bodies and organizations in the economic and social sectors. This involvement is essential for carrying out and effectively coordinating relevant activities in support of the affected countries, in order to avoid duplication of efforts and ensure a reliable assessment of the needs of the affected countries and their priorities in the light of available resources. ACC should play a pivotal role in coordinating the efforts of the United Nations system.

158. In my consultations with Member States and in intergovernmental discussions on the subject, proposals have also been made to the effect that the General

Assembly should establish a permanent fund that would operate automatically on the imposition of sanctions. Alternatively, it has been proposed that individual trust funds be established under the terms of the Security Council resolution imposing sanctions. There is, however, a divergence of views among Member States on this issue and the matter is under intergovernmental discussions. Quite apart from this divergence, however, in instances where a large number of countries are affected or the magnitude of the needs is great, the Secretary-General could, after appropriate consultations through the consultative group suggested in paragraph 156 above, establish a fund or any other appropriate financial arrangements to mobilize resources for providing assistance to the affected States.

159. It is essential that both the General Assembly and the Economic and Social Council join and support the appeal by the Security Council, in the context of Article 50 of the Charter, and its follow-up by the Secretary-General for assistance to States confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council. This would emphasize and enhance the commitment of the international community to respond positively and expeditiously to the requests for assistance in such circumstances. Moreover, given the functions and powers vested in the Economic and Social Council under Articles 63 and 64 of the Charter, it may play, within its new and revitalized structures, an important coordination role for relevant activities of the specialized agencies and other components of the United Nations system. This would give a timely and practical meaning to cooperation between the Security Council and the Economic and Social Council, as provided under Article 65 of the Charter.

Notes

1/ Official Records of the Security Council, Twenty-Second Year, Supplement for January, February and March 1967, document S/7781, annex II.

2/ Ibid., document S/7781 and Add.1-5.

3/ Ibid., document S/7720.

4/ Ibid., Twenty-Eighth Year, Special Supplement No. 2, document S/10896/Rev.1 and Add.1.

5/ E/5299.

6/ Resolutions 1766 (LIV) of 18 May 1973; 1798 (LV) of 24 July 1973; 1832 (LVI) of 8 May 1974; 1875 (LVII) of 16 July 1974; 1951 (LIX) of 22 July 1975; 2012 (LXI) of 3 August 1976; 2093 (LXIII) of 26 July 1977; 1978/46 of 2 August 1978; and decision 1979/46 of 27 July 1979.

7/ Resolutions 1987 (LX) of 11 May 1976; 2020 (LXI) of 3 August 1976; 2094 (LXIII) of 29 July 1977; 1978/63 of 3 August 1978; and decision 1979/46 of 27 July 1979.

8/ Official Records of the General Assembly, Forty-Seventh Session, Supplement No. 33 (A/47/33).

9/ See ibid., Forty-Eighth Session, Supplement No. 33 (A/48/33).

10/ E/5218 and Add.1.

11/ Official Records of the General Assembly, Forty-Sixth Session, Supplement No. 3 (A/46/3).

12/ Ibid., Forty-Seventh Session, Supplement No. 16 (A/47/16), part I.

13/ E/1993/47/Add.1.

14/ Official Records of the General Assembly, Forty-Eighth Session, Supplement No. 16 (A/48/16), part I.

15/ E/1993/INF/6.